federal register

MONDAY, OCTOBER 15, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 198

Pages 28545–28641

PART I

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

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HEW—Coverage and conditions of eligibility in financial assistance programs. 22010; 8–15–73

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federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4250

National School Lunch Week, 1973

By the President of the United States of America

A Proclamation

The National School Lunch Program—now in its twenty-seventh year—works to ensure nutritious and well-balanced meals to young people in our country. Since its inception, the National School Lunch Program, in close partnership with State and local communities, has provided food, funds, and technical assistance in a comprehensive program of child nutrition.

Today, more than 25 million youngsters participate in the program daily. In recent years, a determined and consistent effort has been made to extend the program's benefits to schools that do not have lunch or other food programs for their students.

Because of the special need for good nutrition among high school students and the challenge of achieving their full participation in the program, innovative efforts to make the program more relevant to the needs and experience of today's high school students are now under way.

By a joint resolution approved on October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as National School Lunch Week, and requested the President to issue annually a proclamation calling for observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby urge the people of the United States to observe the week of October 14, 1973, as National School Lunch Week and to give special and deserved recognition to the role of good nutrition in building a strong America through strong American youth.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-22120 Filed 10-12-73;12:06 pm]

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Special Assistant for Public Information to the Special Prosecutor, Watergate Special Prosecution Force, is excepted under Schedule C.

Effective on October 15, 1973, § 213.3310 (w) is added as set out below.

§ 213.3310 Department of Justice.

* * * * *

(w) *Watergate Special Prosecution Force.* (1) One Special Assistant for Public Information to the Special Prosecutor.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Comissioners.

[FR Doc.73-21933 Filed 10-12-73;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE; FRUITS AND VEGETABLES, DEPARTMENT OF AGRICULTURE

[Orange Reg. 9; Orange Reg. 8 Terminated]

PART 944—FRUITS; IMPORT REGULATIONS

This regulation prescribes minimum grade and size requirements for imports of oranges, effective October 16, 1973, to coincide with comparable requirements being made effective on the same date for Texas oranges. It requires imported oranges to grade U.S. No. 2 or better, and be 2$^{6}/_{16}$ inches in diameter or larger. The import requirements are similar to those currently in effect.

On September 26, 1973, notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 26807) that consideration was being given to a proposed regulation, which would limit the importation of oranges into the United States, effective October 16, 1973, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). This notice allowed interested persons 6 days, during which they could submit written data, views, or arguments pertaining to this proposed import regulation. None were received.

This regulation is issued pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The act requires that whenever specified commodities, including oranges, are regulated under a Federal Marketing Order the imports of that commodity must meet the same or comparable requirements as those in effect for the domestically produced commodity. This import regulation is comparable to the domestic grade and size regulation for oranges, issued pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that grade and size restrictions in effect pursuant to the said amended marketing agreement and order shall apply to oranges to be imported.

It is hereby further found that good cause exists for not postponing the effective time of this regulation, beyond that hereinafter specified (5 U.S.C. 553) in that: (a) The requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) such provisions contain, as required, grade and size requirements that are comparable to the domestic requirements for oranges grown in Texas under Orange Regulation 25, which are to become effective October 16, 1973; (c) notice that such action was being considered, was published in the September 26, 1973, issue of the FEDERAL REGISTER (38 FR 26807), and no objection to this regulation was received; (d) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (e) notice hereof in excess of three days, the minimum prescribed by said section 8e, is given with respect to this import regulation by prescribing an effective date of October 16, 1973; and (f) such notice is hereby determined, under the circumstances, to be reasonable.

§ 944.308 Orange Regulation 9.

(a) On and after October 16, 1973, the importation into the United States of any oranges is prohibited unless such oranges are inspected and grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1 grade; or U.S. No. 2; and be of a size not smaller than 2$^{6}/_{16}$ inches in diameter, except that a tolerance for oranges smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions of § 51.689 Tolerances of the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of oranges that are imported into the United States. Inspection by the Federal or Federal-State inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of oranges, is required on all imports of oranges. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of oranges should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the oranges will be imported:

Ports	Office	Advance notice
All Texas points.	L. M. Dembo, 506 South Nebraska St., San Juan, Tex. 78589 (Phone—512-787-4091)	1 day.
	or	
	Charles E. Parragon, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-543-7723).	Do.
All New York points.	Frank J. McNeal, Room 284, Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7665 and 7666)	Do.
	or	
	Charles D. Renick, 176 Niagara Frontier Food, Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-824-1585).	Do.
All Arizona points.	B. O. Morgan, 265 Terrace Ave., Nogales, Ariz. 85621 (Phone—602-287-2002).	Do.
All Florida points.	Lloyd W. Boney, 1313 Northwest 12th Ave., Room 533, Miami, Fla. 33125 (Phone—305-371-2817)	Do.
	or	
	Hubert S. Flynt, 773 Warner Lane, Orlando, Fla. 32814 (Phone—305-894-5511)	Do.
	or	
	Johnnie E. Corbitt, Unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205 (Phone—904-384-6383).	Do.

Ports	Office	Advance notice
All California points.	Daniel P. Thompson, 784 South Central Ave., 266 Wholesale Terminal Bldg., Los Angeles, Calif. 90021 (Phone—213-622-3756).	3 days.
All Louisiana points.	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113 (Phone—504-527-6741 and 6742).	1 day.
All other points.	D.S. Matheson, Fruit and Vegetable Division, Agriculture Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-447-5870).	3 days.

(c) Inspection certificates shall cover only the quantity of oranges that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any oranges to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Not withstanding any other provision of this regulation, any importation of oranges which, in the aggregate does not exceed five 1⅗-bushel boxes, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is hereby determined that imports of oranges, during the effective time of this regulation, are in most direct competition with oranges grown in the State of Texas. The requirements set forth in this section are comparable to those being made effective for oranges grown in Texas.

(h) No provisions of this section shall supersede the restrictions or prohibitions on oranges under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of oranges for the purpose of making it eligible for importation.

(j) The terms used herein relating to grade and diameter shall have the same meaning as when used in the United States Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680–51.714). Importation means release from custody of the United States Bureau of Customs.

(k) Orange Regulation 8 (§ 944.307) is hereby terminated at the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated October 5, 1973, to become effective October 16, 1973.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-21672 Filed 10-12-73;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Relief of Restrictions on Importation of Birds for Research Purposes

Statement of consideration. The purpose of this amendment is to provide a means whereby specific lots of birds may be imported into the United States for research purposes when requests are made in advance to the Deputy Administrator and are approved by him under such conditions as he may prescribe, when he determines, in each specific case, that such action will not endanger the poultry industry of the United States.

Pursuant to the provisions of section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), Part 92, Title 9, Code of Federal Regulations is hereby amended in the following respects:

In § 92.2 paragraphs (a) and (b) are amended to read:

§ 92.2 General prohibitions; exceptions.

(a) No animal or product or bird subject to the provisions of this part shall be brought into the United States except in accordance with the regulations in this part and Part 94 of this subchapter;[1] nor shall any such animal or product or bird be handled or moved after physical entry into the United States before final release from quarantine or any other form of governmental detention except in compliance with such regulations: *Provided,* That the Deputy Administrator may upon request in specific cases permit animals or products or birds, which are to be used for research purposes only, to be brought into or through the United States, under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States.

(b) In order to protect the poultry industry of the United States from exotic Newcastle disease and other communicable diseases of poultry, the importation of birds into the United States is prohibited, except as provided in paragraphs (a), (c), or (d) of this section.

* * * * *

(Secs. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, and 134f; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective October 15, 1973.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and spread of poultry disease and must be made effective promptly to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of October 1973.

E. E. SAULMON,
Deputy Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-21884 Filed 10-12-73;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 327—IMPORTED PRODUCTS

Change in Country Name From British Honduras to Belize

Statement of Considerations. On June 1, 1973, the country of British Honduras changed its name to Belize. Therefore, pursuant to the authority in the Federal Meat Inspection Act, the list of countries in § 327.2(b) of the Federal meat inspection regulations (9 CFR 327.2) is hereby amended to change the name British Honduras to Belize. The new name Belize will appear alphabetically in the list immediately following "Belgium."

* * * * *

[1] Importations of certain animals from various countries are absolutely prohibited under Part 94 because of specified diseases.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective in less than 30 days after publication hereof in the FEDERAL REGISTER.

The foregoing amendment shall become effective October 15, 1973.

Done at Washington, D.C., on October 9, 1973.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-21907 Filed 10-12-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-SO-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Fort Rucker, Ala., control zone.

The Fort Rucker control zone is described in § 71.171 (38 FR 351). In the description, a 2-mile radius circle is predicated on Allen, Ala., Army Stage Field. A change in the U.S. Army training mission at the Fort Rucker complex requires Allen Army Stage Field to be excluded from the control zone. It is necessary to alter the description to reflect this change. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (38 FR 351), the Fort Rucker, Ala., control zone is amended as follows: "* * * within a 2-mile radius of Allen, Ala., Army Stage Field (latitude 31°13'50" N., longitude 85°38'40" W.); excluding the portion within R-2103 * * *" is deleted and "* * * excluding the portion within a 1.5-mile radius of Allen, Ala., Army Stage Field (latitude 31°13'50" N., longitude 85°38'40" W.) and the portion within R-2103 * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on October 2, 1973.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-21852 Filed 10-12-73;8:45 am]

[Airspace Docket No. 73-RM-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On August 24, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 22795) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the control zone and transition area at Kalispell, Mont.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., December 6, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colorado, on October 2, 1973.

M. M. MARTIN,
Director, Rocky Mountain Region.

In § 71.171 (38 FR 390), the description of the Kalispell control zone is amended to read:

Within a 5-mile radius of the Glacier Park International Airport (latitude 48°18'49" N., longitude 114°15'16" W.); within 2 miles each side of the 035° bearing from the Smith Lake NDB (latitude 48°06'26" N., longitude 114°27'37"); extending from the 5-mile radius zone to 4 miles northeast of the NDB (12.5 miles southwest of the airport).

In § 71.181 (38 FR 510), the description of the transition area is amended to read:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Glacier Park International Airport (latitude 48°18'49" N., longitude 114°15'16" W.); within 5.5 miles each side of the 035° and 215° bearings from the Smith Lake NDB (latitude 48°06'26" N., longitude 114°27'37" W.); extending from the 8-mile radius area to 12 miles southwest of the NDB. That airspace extending upward from 1200 feet above the surface within 5.5 miles east and 9.5 miles west of the Kalispell VOR 166° radial extending from the 700-foot transition area to 18.5 miles south of the VOR; within 5.5 miles southeast and 9.5 miles southwest of the 035° and 215° bearings from the Smith Lake NDB extending from 7.5 miles northeast of the NDB to 18.5 miles southwest of the NDB excluding the 700-foot transition area.

[FR Doc.73-21853 Filed 10-12-73;8:45 am]

[Airspace Docket No. 73-SO-33]

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Area

On August 14, 1973, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 21938) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a temporary restricted area in the vicinity of Fort Campbell, Ky. The area would be used to encompass a joint military exercise "Brave Shield VII" to be conducted from December 6 through 11, 1973.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Two comments were received.

One comment from the Air Transport Association of America, although not an objection, noted that avoidance of the proposed temporary restricted area would increase the flight distance for airlines operating in that vicinity.

The Federal Aviation Administration has recognized the inconvenience that the proposed area will impose on the airlines, and it has established temporary radials to keep the circumnavigation distance to a minimum.

A second comment was an objection to the proposal on the basis that it would restrict access to airports in the proposed restricted area. However, when representatives of the Federal Aviation Administration and the designated using agency assured that such access would not be unduly restricted, the objection was withdrawn.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

In § 73.37 (38 FR 650) the following temporary restricted area is added:

R-3705 BRAVE SHIELD VII, FORT CAMPBELL, KY.

1. Subarea A.
Boundaries.
Beginning at Lat. 36°57'00" N., Long. 88°03'00" W.; to Lat. 36°57'00" N., Long. 87°45'00" W.; to Lat. 36°39'00" N., Long. 87°33'00" W.; thence counterclockwise along the boundary of Restricted Area R-3702 to Lat. 36°32'00" N., Long. 87°32'30" W.; to Lat. 36°34'00" N., Long. 87°29'50" W.; to Lat. 36°19'00" N., Long. 87°30'00" W.; to Lat. 36°15'00" N., Long. 87°36'00" W.; to Lat. 36°15'00" N., Long. 88°15'00" W.; to point of beginning.
Designated altitudes. Surface to and including FL 180.
Time of designation. December 6-11, 1973, inclusive, from 0600 C.S.T. to 1900 C.S.T.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. U.S. Air Force Readiness Command, Langley AFB, Va.
2. Subarea B.
Boundaries.
Beginning at Lat. 36°15'00"N., Long. 87°39'00"W.; to Lat. 36°00'00"N., Long. 87°53'00"W.; to Lat. 36°00'00"N., Long. 88°17'00"W.; to Lat. 36°15'00"N., Long. 88°15'00"W.; to point of beginning.
Designated altitudes. Surface to and including 10,000 feet MSL.
Time of designation. December 6-11, 1973, inclusive from 0600 C.S.T. to 1900 C.S.T.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency. U.S. Air Force Readiness Command, Langley AFB, Va.

3. Subarea C.
Boundaries.
Beginning at Lat. 36°15'00"N., Long. 87°36'00"W.; to Lat. 36°00'00"N., Long. 87°58'00"W.; to Lat. 36°00'00"N., Long. 88°17'00"W.; to Lat. 36°15'00"N., Long. 88°15'00"W.; to point of beginning.
Designated altitudes. From 10,000 feet MSL to and including FL 180.
Time of designation. December 6-11, 1973, inclusive, from 0600 C.S.T. to 1900 C.S.T.
Controlling agency. Federal Aviation Administration, Memphis ARTC Center.
Using agency, U.S. Air Force Readiness Command, Langley AFB, Va.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 4, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-21854 Filed 10-12-73;8:45 am]

[Docket No. 13231; Amdt. 885]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, D.C. 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective November 22, 1973.

Hagerstown, Md.—Hagerstown Municipal Airport, VOR Runway 9, Amdt. 4.
Hattiesburg, Miss.—Hattiesburg Municipal Airport, VOR Runway 13, Amdt. 5.
Houston, Tex.—William P. Hobby Airport, VORTAC Runway 3, Amdt. 10.
Houston, Tex.—William P. Hobby Airport, VOR Runway 12 (TAC), Amdt. 8.
Houston, Tex.—William P. Hobby Airport, VORTAC Runway 21, Amdt. 15.
Houston, Tex.—William P. Hobby Airport, VORTAC Runway 30, Amdt. 5.
Huntsville, Tex.—Huntsville Municipal Airport, VORTAC-A, Amdt. 2.
Kenedy, Tex.—Karnes County Airport, VORTAC-A, Amdt. 1.
Liberty, Tex.—Liberty Municipal Airport, VOR-A, Amdt. 1.
Modesto, Calif.—Modesto City-County Airport, VOR Runway 10L, Amdt. 2.
Nashville, Tenn.—Nashville Metropolitan Airport, VOR/DME Runway 2L, Amdt. 1.
Nashville, Tenn.—Nashville Metropolitan Airport, VOR/DME Runway 13, Amdt. 3.
Nashville, Tenn.—Nashville Metropolitan Airport, VOR/DME Runway 20R, Amdt. 1.
Nashville, Tenn.—Nashville Metropolitan Airport, VOR Runway 31, Amdt. 21.
Port Lavaca, Tex.—Calhoun County Airport, VORTAC Runway 23, Amdt. 1.
St. Petersburg, Fla.—Albert Whitted Airport, VOR Runway 18, Amdt. 2.
Vero Beach, Fla.—Vero Beach Municipal Airport, VOR Runway 11, Amdt. 8.

* * * effective October 2, 1973

Destin, Fla.—Destin-Ft. Walton Beach Airport, VOR-A, Amdt. 1.

* * * effective October 1, 1973

North Myrtle Beach, S.C.—Myrtle Beach Airport, VOR Runway 5, Amdt. 8.

* * * effective September 28, 1973

Owensboro, Ky.—Owensboro-Daviess County Airport, VOR Runway 35, Amdt. 9.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, effective November 22, 1973.

Nashville, Tenn.—Nashville Metropolitan Airport, LOC (BC) Runway 20R, Amdt. 11.

* * * effective October 18, 1973

Bethel, Alaska—Bethel Airport, LOC/DME Runway 18, Original, canceled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective November 22, 1973.

Cleveland, Ohio—Cleveland Hopkins International Airport, NDB Runway 5R/L, Amdt. 7.
Cleveland, Ohio—Cleveland Hopkins International Airport, NDB Runway 23R, Original, Canceled.
Cleveland, Ohio—Cleveland Hopkins International Airport, NDB Runway 23L, Original, Canceled.
Cleveland, Ohio—Cleveland Hopkins International Airport, NDB Runway 23L/R, Original.
Hattiesburg, Miss.—Hattiesburg Municipal Airport, NDB Runway 13, Amdt. 4.
Houghton Lake, Mich.—Roscommon County Airport, NDB Runway 27, Amdt. 2.
Houston, Tex.—Andrau Airpark, NDB Runway 16, Amdt. 11.
Houston, Tex.—Hull Field, NDB Runway 17, Amdt. 1.
Houston, Tex.—David Wayne Hooks Memorial Airport, NDB Runway 17R, Amdt. 3.
Lexington, Ky.—Blue Grass Airport, NDB Runway 4, Amdt. 9.
Nashville, Tenn.—Nashville Metropolitan Airport, NDB Runway 2L, Amdt. 21.
Nashville, Tenn.—Nashville Metropolitan Airport, NDB Runway 20R, Amdt. 1.

* * * effective November 1, 1973

Worcester, Mass.—Worcester Municipal Airport, NDB Runway 11, Amdt. 6.

* * * effective September 28, 1973

Owensboro, Ky.—Owensboro-Daviess County Airport, NDB Runway 35, Amdt. 1.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 22, 1973.

Cleveland, Ohio—Cleveland Hopkins International Airport, ILS Runway 5R/L, Amdt. 10.
Cleveland, Ohio—Cleveland Hopkins International Airport, ILS Runway 28R, Amdt. 10.
Lexington, Ky.—Blue Grass Airport, ILS Runway 4, Amdt. 3.
Nashville, Tenn.—Nashville Metropolitan Airport, ILS Runway 2L, Amdt. 23.

* * * effective November 15, 1973

Houston, Tex.—Houston Intercontinental Airport, ILS Runway 8, Amdt. 3.

* * * effective November 1, 1973

Worcester, Mass.—Worcester Municipal Airport, ILS Runway 11, Amdt. 6.

* * * effective October 25, 1973

Sterling Rockfalls, Ill.—Whiteside County Airport, ILS Runway 25, Original.

* * * effective October 18, 1973

Bethel, Alas.—Bethel Airport, ILS/DME Runway 18, Original.

* * * effective September 28, 1973

Owensboro, Ky.—Owensboro-Daviess County Airport, ILS Runway 35, Amdt. 3.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAPs, effective November 22, 1973.

Baytown, Tex.—Humphrey Airport, RADAR-A, Amdt. 1.
Houston, Tex.—Collier Airport, RADAR-B, Original.
La Porte, Tex.—La Porte Municipal Airport, RADAR-B, Amdt. 4.
Nashville, Tenn.—Nashville Metropolitan Airport, RADAR-1, Amdt. 13.
Pearland, Tex.—Pearland Airport, RADAR-A, Amdt. 1

* * * effective October 2, 1973

Destin, Fla.—Destin-Ft. Walton Beach Airport, RADAR-1, Amdt. 3

Corrections. In Docket No. 13229, Amendment No. 884 to Part 97 of the Federal Aviation regulations, published in the FEDERAL REGISTER under §§ 97.25 and 97.29 effective October 25, 1973, disregard New York, N.Y.—La Guardia Air-

port, LOC Runway 22, Orig.; New York, N.Y.—La Guardia Airport, ILS Runway 22, Amdt. 9, effective September 13, 1973 remains in effect.

In Docket No. 13145, Amendment No. 880 to Part 97 of the Federal Aviation regulations published in the FEDERAL REGISTER dated Friday, September 7, 1973, on page 24351, under § 97.29 effective October 18, 1973; change effective date of San Antonio, Tex.—San Antonio International Airport, ILS Runway 12R, Amdt. 3 to November 15, 1973.

In Docket No. 13210, Amendment No. 883 to Part 97 of the Federal Aviation regulations published in the FEDERAL REGISTER under § 97.29, effective November 8, 1973, disregard Kailua-Kona, Hawaii—Ke-ahole Airport, ILS/DME Runway 17, Amdt. 1; Original remains in effect.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1)).)

Issued in Washington, D.C., on October 4, 1973.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.73-21857 Filed 10-12-73;8:45 am]

[Docket No. 12649; Amdt. No. 171-9]

PART 171—NON-FEDERAL NAVIGATION FACILITIES

Performance Requirements for VOR, ILS, and SDF Facilities

The purpose of these amendments to Part 171 of the Federal Aviation Regulations is to revise certain performance requirements for non-Federal very high frequency omnidirectional radio (VOR), instrument landing systems (ILS), and simplified directional facilities (SDF).

This amendment is based on a notice of proposed rulemaking (Notice No. 73-9) issued March 14, 1973, and published in the FEDERAL REGISTER on March 21, 1973 (38 FR 7401). Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all comments received in response to that Notice.

Notice 73-9 stated that the FAA had determined that future requirements for air navigation aids in the National Airspace System could not be met with the number of frequencies now available for assignment, and that examination of alternative solutions to this problem indicated that reduction of radio channel spacing from the present 100 kHz spacing to 50 kHz spacing was the most economical and practicable method of increasing the number of assignable frequencies.

The Federal Communications Commission, at the request of the FAA, has amended Parts 2 and 87 of the FCC regulations (47 CFR 2, 87; 38 FR 14106, May 29, 1973) to provide for 50 kHz channel spacing in the frequency band 108-117.95 MHz. This amendment doubles the availability of assignable channels for VOR and ILS facilities.

As indicated in Notice No. 73-9, implementation of 50 kHz channel spacing will require an increase of frequency stability for the ILS glide slope and localizer, SDF, and VOR ground transmitters. In order to provide for satisfactory adjacent-channel operations, the frequency tolerance of these transmitters must necessarily be reduced from the previous performance requirement of 0.005 percent to 0.002 percent. The FCC rules change cited above requires 0.002 percent frequency tolerance effective July 1, 1973. The FAA and Department of Defense (DOD) have accomplished frequency stabilization for federally operated facilities.

The Notice proposed that operators of non-Federal VOR facilities be required to suppress subcarrier harmonics (to perform in accordance with paragraph 3.3.5.7 of Annex 10 to the Convention on International Civil Aviation) within 180 days after notification by the Administrator that 50 kHz channel spacing was to be implemented in the area and that a requirement existed for suppression of 9960 Hz subcarrier harmonics. While it was proposed that this requirement be made effective July 1, 1973, it was also anticipated that with the additional frequencies available for assignment, adjacent-channel interference could be avoided for some period of time and suppression of harmonics at non-Federal facilities could be avoided until 1975.

Objection was expressed in comments received to the early effective date for this requirement as imposing an unnecessary requirement. It was recommended that the requirement not be imposed until 1975.

Another comment recommended that harmonic suppression be required to be accomplished as soon as possible, and no later than January 1, 1974, to eliminate the problem of adjacent-channel interference or reception, without a warning flag, when a 50 kHz receiver is inadvertently tuned to an unoccupied channel adjacent to a VOR ground station.

Data available to the FAA indicates that suppression of harmonics to the ICAO standard proposed, or even 3dB and 5dB below that standard does not eliminate the undesirable flag action under the inadvertent mistuning condition. Additionally, FAA believes that the problem of mistuning an airborne receiver is most appropriately resolved by crew training and indoctrination, or by modification of airborne equipment. In this connection, FAA issued Advisory Circular 90-58, February 16, 1972, advising of the potential hazards of inadvertent mistuning of 50 kHz receivers.

With respect to the effective date for requiring harmonic suppression, the FAA believes that with the additional flexibility in frequency assignment afforded by 50 kHz channel spacing adjacent-channel interference from non-Federal facilities can be be avoided for the immediate future. Accordingly, § 171.7(e) has been changed to provide for suppression of harmonics on non-Federal VOR facilities after January 1, 1975. VOR facilities operated by the United States (FAA and DOD) will have harmonics suppressed as necessary to avoid adjacent-channel interference.

These amendments are made under the authority of sections 305, 307, 313(a), 601, and 606 of the Federal Aviation Act of 1958 (49 U.S.C. 1346, 1348, 1354(a), 1421, and 1426), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 171 of the Federal Aviation Regulations is amended effective November 19, 1973, as follows:

1. By amending paragraph (a) of § 171.7 and by adding a new paragraph (e) to § 171.7 to read as follows:

§ 171.7 Performance requirements.

(a) The VOR must perform in accordance with the "International Standards and Recommended Practices, Aeronautical Telecommunications," Part I, paragraph 3.3 (Annex 10 to the Convention on International Civil Aviation), except that part of paragraph 3.3.2.1 specifying a radio frequency tolerance of 0.005 percent, and that part of paragraph 3.3.7 requiring removal of only the bearing information. In place thereof, the frequency tolerance of the radio frequency carrier must not exceed plus or minus 0.002 percent, and all radiation must be removed during the specified deviations from established conditions and during periods of monitor failure.

* * * * *

(e) After January 1, 1975, the owner of the VOR shall modify the facility to perform in accordance with paragraph 3.3.5.7 of Annex 10 to the Convention on International Civil Aviation within 180 days after receipt of notice from the Administrator that 50 kHz channel spacing is to be implemented in the area and that a requirement exists for suppression of 9960 Hz subcarrier harmonics.

2. By adding a new paragraph (a)(4) to 171.47 to read as follows:

§ 171.47 Performance requirements.

(a) * * *

(4) The frequency tolerance of the radio frequency carrier must not exceed plus or minus 0.002 percent.

* * * * *

3. By amending paragraph (a)(4) of § 171.109 to read as follows:

§ 171.109 Performance requirements.

(a) * * *

(4) The SDF must operate on odd tenths or odd tenths plus a twentieth MHz within the frequency band 108.1 MHz to 111.95 MHz. The frequency tolerance of the radio frequency carrier must not exceed plus or minus 0.002 percent.

* * * * *

4. By amending paragraph (a)(1) of § 171.111 to read as follows:

§ 171.111 Ground standards and tolerances.

(a) * * *

(1) The SDF must operate on odd tenths or odd tenths plus a twentieth MHz within the frequency band 108.1 MHz to 111.95 MHz. The frequency tolerance of the radio frequency carrier must not exceed plus or minus 0.002 percent.

* * * * *

Issued in Washington, D.C., on October 3, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-21855 Filed 10-12-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Delegations of Authority

The Commissioner of Food and Drugs, for the purpose of establishing an orderly development of informative regulations for the Food and Drug Administration, furnishing ample room for expansion of such regulations in years ahead, and providing the public and affected industries with regulations that are easy to find, read, and understand, has initiated a recodification program for Chapter I of Title 21 of the Code of Federal Regulations.

The first document in a series of recodification documents that will eventually include all regulations administered by the Food and Drug Administration appears elsewhere in this issue of the FEDERAL REGISTER. The regulations formerly under Part 278—Regulations for the Administration and Enforcement of the Radiation Control for Health and Safety Act of 1968, have been reorganized into eight parts as a new Subchapter J—Radiological Health, in an effort to provide greater clarity and adequate space for the development of future regulations.

Regulations that were formerly listed under 21 CFR Part 278 are referenced in § 2.121(z), (cc) and (dd). To provide uniformity and continuity during the recodification the Commissioner concludes that the references under § 2.121(z), (cc) and (dd) should be made at this time. Therefore, § 2.121(z), (cc) and (dd) are revised to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(z) *Delegations relating to granting and withdrawing variances from performance standards for electronic products*—The Director and Deputy Director of the Bureau of Radiological Health are authorized to grant and withdraw variances from the provisions of performance standards for electronic products established in Subchapter J of this chapter.

* * * * *

(cc) *Delegations relating to notification of defects in, and repair or replacement of, electronic products*—The Director and Deputy Director of the Bureau of Radiological Health are authorized to perform all the functions of the Commissioner of Food and Drugs relating to notification of defects in, and repair or replacement of, electronic products under section 359 of the Public Health Service Act and under §§ 1003.11, 1003.22, 1003.31, 1004.2, 1004.3, 1004.4, and 1004.6 of this chapter. The Director of the Division of Compliance of the Bureau of Radiological Health is authorized to notify manufacturers of defects in, and noncompliance of, electronic products under section 359(e) of the Public Health Service Act.

(dd) *Delegations relating to manufacturer's resident import agents*—The Director and Deputy Director of the Bureau of Radiological Health are authorized to reject manufacturers' designations of resident import agents pursuant to § 1005.25(b) of this chapter.

* * * * *

The changes being made are nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation.

Dated October 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-21645 Filed 10-12-73;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

PART 17—BAKERY PRODUCTS

Improvement of Nutrient Levels of Enriched Flour, Enriched Self-rising Flour, and Enriched Breads, Rolls or Buns

In the matter of amending the standards of identity for enriched flour, enriched self-rising flour, enriched farina and enriched bread, rolls or buns to improve the nutrient levels:

A notice of proposed rulemaking was published in the FEDERAL REGISTER of April 1, 1970 (35 FR 5412), based on a petition filed jointly by the American Bakers Association, 1700 Pennsylvania Ave., NW., Washington, D.C. 20006, and the Millers' National Federation, National Press Bldg., 529 14th St., N.W., Washington, D.C. 20004, proposing that (1) iron be required at a level of not less than 50 milligrams and not more than 60 milligrams per pound of enriched flour (21 CFR 15.10) and enriched self-rising flour (21 CFR 15.60) and (2) that iron be required at a level of not less than 32 milligrams and not more than 38 milligrams per pound of enriched bread, rolls or buns (21 CFR 17.2).

In the same proposal the Commissioner of Food and Drugs, on his own initiative, proposed that the standard for enriched bread, rolls or buns also be amended by inserting a statement that iron and calcium may be added only in forms which are harmless and assimilable. The standards for enriched flour and enriched self-rising flour already bear such a statement.

Thirty-five comments representing the medical and allied professions, State and county officials, the baking and milling industry, ingredient suppliers, and consumers were received in response to the proposal. Thirty-two of the respondents favored the proposal, some recommending certain changes such as delayed effective dates or different amounts of iron.

Three respondents, all physicians, opposed the proposal on the grounds that increased iron in the diet, especially in the case of males, could lead to excessive iron storage in such diseases as cirrhosis of the liver and hemochomatosis or to an increased prevalence of iron storage disorders. As the 1969 White House Conference on Food, Nutrition, and Health, the Food and Nutrition Board, National Academy of Sciences-National Research Council, and the Council on Foods and Nutrition, American Medical Association had all recommended increasing the iron content in the diet, the Commissioner deemed it advisable to pursue the matter further.

The Food and Drug Administration asked the Council of Foods and Nutrition of the American Medical Association for an opinion on the opposing comments. In a letter dated July 13, 1970, the Council expressed the opinion that it would be in the public interest to adopt the higher levels of iron as proposed for enriched flour and bread.

On further consideration, the Commissioner concluded that an alternate proposal should be published. Accordingly, a notice of proposed rulemaking was published in the FEDERAL REGISTER of December 3, 1971 (36 FR 23074), in which the Commissioner, on his own initiative, made an alternate proposal that the standards of identity for enriched flour, enriched self-rising flour, enriched farina, and enriched bread, rolls or buns be amended to revise the requirements, not only for iron, but also for calcium and vitamins.

In most instances, the present standards provide ranges for the quantities of added nutrients with both maximum and minimum levels specified. In order to insure uniformity and maximum benefit to the consumer, the Commissioner proposed that the present ranges for nutrients enriched flour, enriched self-rising flour, enriched farina and enriched bread, rolls or buns be deleted and that single level requirements, with provisions for reasonable overages within the limits of good manufacturing practice, be substituted. The reason for applying the new requirements to enriched self-rising flour and enriched farina was to ensure an improved nutritional quality of the diet when home-prepared foods made from these cereal products are consumed in place of enriched bread.

The proposed level of iron for enriched flour and enriched self-rising flour (21 CFR 15.10, and 15.60) was 40 milligrams per pound. Due to a cross reference, amendment of 21 CFR 15.10 would have the effect of similarly amending the standard for enriched bromated flour (21 CFR 15.30). This level is 23.5 milligrams more than the maximum level now permitted. With respect to iron in enriched bread, rolls or buns (21 CFR 17.2), the proposed level of 25 milligrams per pound was 12.5 milligrams more than the maximum level now permitted. Based on average consumption data, these higher amounts would provide modest increases of 2 to 4 milligrams in daily iron intakes, varying on the basis of different age and sex groups. In order to insure uniformity, the amount of iron proposed for enriched farina (21 CFR 15.140) was also 40 milligrams per pound of finished food, as compared with a minimum of 13 milligrams and no maximum in the present standard. In accord with the general philosophy of moderation in enrichment practices, the proposed increases in iron levels were selected to achieve significant increments in average iron intakes of population segments known to have high prevalences of iron deficits, but without exceeding acceptable intakes for persons who may be heavy consumers of these enriched foods.

The proposed level for calcium in enriched flours and in enriched farina was 960 milligrams per pound of finished food, except that when more calcium is needed for technical purposes in enriched self-rising flour the quantity could exceed 960 milligrams per pound but the excess could be no greater than that necessary to accomplish the intended effect. The ranges provided for in the existing standards are 500–625 milligrams for enriched flour, 500–1,500 milligrams for enriched self-rising flour, and a 500 milligram minimum with no maximum for enriched farina. The proposed level for calcium in enriched bread, rolls or buns was 600 milligrams per pound of finished food, as compared with a range of 300–800 milligrams in the present standard.

With respect to vitamins, the proposed levels for thiamine, riboflavin, and niacin were either within the range specified in an existing standard (in the case of enriched bread, rolls or buns) or in excess of but close to the maxima of the ranges specified in the present standards. It was also proposed to eliminate existing provisions for the optional addition of vitamin D.

In response to the proposal of December 3, 1971 (36 FR 23074), 520 comments were received. Seventeen of the comments carried more than one signature, bringing the total number of respondents to 575. Three hundred and eighteen, or 55 percent, of the respondents were professional scientists in the health and allied fields. Most of these commented as individuals but 16 spoke for medical or nutrition-oriented organizations. Two-thirds of this group were physicians. Twenty-six widely recognized authorities on iron nutrition, iron metabolism and/or iron storage diseases commented, 17 of whom were physicians. There were seven comments from Federal, State, and local government agencies. There were 26 comments from industrial firms and trade associations, their officers, or legal firms representing them. More than half of these were from the baking and milling sector. Two hundred and twenty-four, or 39 percent, of the respondents were consumers. Three consumer organizations responded.

More than 95 percent of all respondents commented on the iron enrichment aspect of the proposal, either directly or as part of a position on the entire proposal.

All three national medical organizations which commented (Council on Foods and Nutrition of the American Medical Association (AMA), American Society for Clinical Nutrition; American College of Nutrition) supported the iron proposal. All national organizations representing combined medical and/or allied sciences which commented also supported the proposal (American Dietetic Association; Food and Nutrition Section of the American Public Health Association; Food and Nutrition Section of the American Home Economics Association). No official comments were received from national or international hematological societies. The Food and Nutrition Board of the National Academy of Sciences-National Research Council - (NAS–NRC) called attention without further comment to its original statement of November 1969 in support of increased iron enrichment. Of State organizations representing nutrition, public health or dietetics, comments in support of the proposal were received from the following States: Michigan, Minnesota, Oregon, Washington, and Kentucky. The New York State Nutrition Council Executive Board endorsed the proposal in principle, but requested hearings and possible additional research before implementation. Comments from other scientific organizations at the state level were not submitted. The only county organization which commented supported the proposal (Nutrition Committee of Rochester and Monroe County, New York). The only other professional organization which commented opposed the proposal as well as other enrichment practices (Washington, D.C., Chapter of the Allergy Foundation of America). Comments from Federal, State, and local government agencies and from industrial firms and trade associations supported the increased iron proposal.

Among the 26 widely recognized authorities on iron who individually commented, 21 supported the proposal and 5 opposed it, the latter primarily indicating the need for additional research on efficacy, bioavailability and/or toxicity before implementation. An additional 24 individuals who identified themselves as hematologists opposed the proposal on similar grounds. However, a strong appeal to the hematological community calling for further comments to the Hearing Clerk in opposition to the proposal resulted in no further comments making reference to this appeal (Letter to the Editor of "Blood" 39:298, February 1972, by Dr. W. H. Crosby), even though the Commissioner extended the period for comment at the request of the Editor of the journal, "Blood", from February 1 to May 1, 1972. All but 9 of the comments received from hematologists were received prior to February 1972. There were an additional 164 general practitioners, osteopaths or medical specialists in fields other than nutrition and hematology who commented on the iron aspects of the proposal, 17 favoring it and 147 opposing it. Individual professionals in the allied sciences, including 93 nutritionists, dietitians, educators, and nurses, favored the iron proposal by approximately two to one.

Consumers, commenting both as individuals and as represented by various organizations, opposed by more than six to one the proposal to increase the iron content. A very large proportion of these comments were stimulated by numerous articles in the lay press (as evidenced by the enclosure of, or reference to, such articles), suggesting that the increased iron levels would not be beneficial and would lead to an increase in the number and severity of cases of iron storage disorders.

During the two months following the end of the comment period on May 1, 1972, an additional 35 comments were received and reviewed. The views expressed were similar to, and as diverse as, the comments received during the official comment period.

The only major opposition to the proposal concerned the increase in iron enrichment. The principal reasons for concern expressed by those opposing the increase in iron enrichment and the Commissioner's conclusions are as follows:

(1) *It was asserted that higher iron intakes might result in chronic iron toxicity in males, manifested by an increase in the prevalence and/or severity of iron storage disorders, particularly hemochromatosis.* This concern was stated in 73 percent of the unfavorable letters, and was prominently expressed by opposing physicians, allied science professionals, and consumers. Consumers also frequently referred to gastrointestinal intolerance to iron. The Commissioner felt that this possibility required further detailed study, even though authoritative scientific bodies had reviewed the subject in recent years, had concluded that the possibility of toxic problems was extremely unlikely, and had recommended the increased iron enrichment as proposed in the interest of the public health. Therefore, the Food and Drug Administration contracted with the Federation of American Societies for Experimental Biology (FASEB) to conduct a thorough review of existing knowledge of iron storage disorders in the human. This review was conducted with the assistance of 18 of the most eminent international authorities in the field, including authorities who had voiced objections to the iron proposal, and the detailed final report was published and submitted to the Food

and Drug Administration in November 1972, entitled "A Review of the Significance of Dietary Iron on Iron Storage Phenomena". (Copies are available under the Accession No. PB218336 at a cost of $3.00 each from: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22151.) In addition, the Council on Foods and Nutrition of the American Medical Association (AMA) reexamined its position on the matter, and published its detailed review in the Journal of the American Medical Association of May 8, 1972 (JAMA, 220: 855–859, 1972). On the basis of the comments received, the comprehensive report from FASEB, the AMA review statement and other information, the Commissioner concludes that the proposed increase in the iron content of enriched flours and enriched bread, rolls or buns will not jeopardize the health of normal males (or females), and that the additional iron will not increase the incidence of hemochromatosis or other hereditary iron storage disorders. Regarding the hypothesis that additional dietary iron may accelerate the accumulation of iron in the latent or undiagnosed hemochromatotic, the Commissioner concludes that there is no substantial evidence to prove or disprove the hypothesis. In addition, the Commissioner notes that dietary iron restriction is not a prominent part of the therapy of iron storage disorders, and most frequently is not prescribed at all, that regularly-scheduled phlebotomy is the principal therapy for hemochromatosis, and that the effectiveness of phlebotomy greatly exceeds the effectiveness of efforts to control the dietary intake of iron. The Commissioner fully appreciates the desirability of further research on the iron storage disorders, even though they are relatively rare, and will take steps to stimulate the support of such research by appropriate Federal agencies.

(A substantial number of respondents expressed an opposite concern that flour and bakery products not enriched with iron would be available in the future. It is not mandatory that flour and bread or other bakery products be enriched. The Food and Drug Administration does not intend to alter the existing standards of identity for unenriched cereal flours and related products (21 CFR Part 15) and unenriched bakery products (21 CFR Part 17) in the immediate future with regard to nutrient properties. Approximately two-thirds of the flour currently consumed in the United States is enriched. Some States have passed mandatory enrichment laws for white flour and/or bread sold in the retail market. In the States not having mandatory enrichment laws, millers and bakers can produce and market the foods without any addition of nutrients. Certain specialty breads such as whole wheat bread, and raisin bread are not enriched customarily. If breads are enriched, their labels must clearly so state.)

(2) *Doubts were expressed as to the need for or efficacy of the iron enrichment as proposed.* These doubts were expressed in 21 percent of the letters opposing the increased iron levels. Specific questions were raised as to: (a) The validity and volume of data indicating a prevalent iron deficiency problem; (b) whether a mild-to-moderate iron deficiency anemia is deleterious to health; (c) the bioavailability of various forms of iron used for enrichment in prevention or treatment of iron deficiency anemia; (d) the sufficiency of the proposed increases in iron, and (e) whether cereal products generally are the most suitable vehicles for iron enrichment. The Commissioner initiated reexaminations of each of these questions within the Food and Drug Administration to determine if the stated conclusions of such groups as the AMA Council on Foods and Nutrition, the NAS–NRC Food and Nutrition Board, and the White House Conference on Food, Nutrition, and Health remained valid. The Commissioner's conclusions are discussed below:

(a) There has been a steadily increasing number of studies on specific population groups indicating substantial prevalences of iron deficiency anemia in various sex, age, and physiologic groups. There have been no studies to the contrary. These studies emphasize that the observation of a given prevalence and degree of anemia in any particular population group indicates deficits in body iron stores of a much higher degree. Although these studies have involved many specific groups such as infants, preschool children, adolescents, adult men and women, and elderly people, and have examined differences on the basis of race and socio-economic status, it is not possible to generalize about the national population, nor is it particularly useful to do so, because of the basic heterogeneity of the population. Examples of recent study results include: (1) In rural Tennessee, 26 percent to 39 percent of black children and 20 percent to 27 percent of white children under the age of 2 years had hematocrit levels below 31 percent; (2) in the Ten State Nutrition Survey, anemia rates for black children were more than twice the rates seen for white children; (3) numerous surveys have shown higher rates in lower income families; (4) using the criteria of 11.5 grams of hemoglobin per 100 milliliters of blood to define anemia in adolescent girls, prevalence rates of from 2.6 percent in white girls from relatively high income states to 26.6 percent in black girls from relatively low income states were documented in the Ten State Nutrition Survey; using the criteria of 13.0 grams per 100 milliliters to define anemia in adolescent boys, the comparable prevalence figures were 12.8 percent and 49.6 percent; (5) in pregnant women, using the criteria of 11 grams and below to define anemia, reported prevalence rates ranged between 8 percent and 58 percent and varied widely from one population group to another; (6) in a series of 460 preschool black children from low income families in Washington, DC, 29 percent were found to have hemoglobin levels below 10 grams per 100 milliliters, and almost half were below 10.5 grams of hemoglobin; (7) regardless of age or sex, recent studies permitting appropriate comparisons have consistently shown higher anemia prevalence rates in blacks compared to whites, in low income states compared to higher income states, and in low socio-economic groups compared with groups higher in this regard. The Commissioner concludes from these and related observations that there is a strikingly high incidence of iron deficiency anemia in many large segments of the U.S. population and that these deficits are not limited to infants, women during their menstrual life, and pregnant women.

(b) There is general agreement that severe iron deficiency anemia is debilitating and, in rare cases, that it can be extremely serious and even fatal; that sufficient dietary iron leads to a maximum hemoglobin level generally thought of as being optimal for good health; and that marked iron deficiency is harmful to both pregnant women and the newborn. One is dealing with a continuum between severe anemia on the one hand and maximal hemoglobin levels and normal iron stores on the other, with much variation of response from individual to individual between these two extremes. There remains a considerable lack of precise knowledge in the area of the clinical significance of mild to moderate anemia. This is an extremely difficult area in which to perform definitive studies because of the many variables involved, the need to document differences or changes with imprecise methods (particularly when measuring behavioral, psychological or sociological parameters), and the likelihood that differences in many parameters will be small if the anemia itself is mild. Nevertheless, most (but not all) efforts to explore this area have indicated adverse effects of mild to moderate anemia. Fatigue and listlessness are frequently observed, but difficult to quantitate. One study of 89 children of 4 to 5 years of age indicated that iron deficiency was associated with measurably lower alertness and attentiveness in a learning situation, but that measured IQ was not affected. Another study of adolescents indicated that students with iron deficiency tended to score lower on Iowa Achievement Tests. From a study involving a broad sampling of preschool children across the country, results indicated that the children whose heights were below the 25th percentile had lower levels of transferrin saturation and hemoglobin than did those children whose heights were above the 25th percentile. Other studies have also indicated poor growth in iron deficient infants. There is some evidence to suggest that iron deficiency is associated with reduced resistance to infections. The Commissioner concludes from these and related observations that moderate to severe iron deficiency anemia is clearly detrimental to health and that the preponderance of available evidence

indicates that mild to moderate anemia is also deleterious to good health and normal function. The Commissioner recognizes the need for further precise research in the area and notes that definitive results from such research may not be available for some years because of the inherent complexity of the research.

(c) The Commissioner contracted with FASEB for an in-depth review of the current knowledge of the bioavailability of the various forms of iron used for enrichment purposes, and the resultant definitive report entitled "The Bioavailability of Iron Sources and Their Utilization in Food Enrichment" is available from the National Technical Information Service, U.S. Department of Commerce, 14th St. & Constitution Ave. NW., Washington, D.C. 20230. Extensive work is now underway in Food and Drug Administration laboratories and in collaboration with independent investigators to refine and standardize the biological method most suitable for measuring bioavailability for future research, quality control and regulatory use. The Commissioner realizes that a fixed degree of bioavailability for any specific source of iron does not exist because of individual variability from person to person and extensive variations due to the effect of the composition of the total diet on bioavailability. The Commissioner also recognizes that there are certain forms of iron currently used for enrichment or fortification purposes which probably have unacceptable bioavailability characteristics, although their use has been decreasing in recent years in favor of the use of such readily bioavailable sources as ferrous sulfate. The Commissioner concludes that there is a need to define sources of iron with reasonable bioavailability characteristics, but does not feel that it is in the public interest to delay publication of these regulations to await the outcome of evaluation of the single matter of acceptable sources of iron. This matter will be handled as a separate action upon completion of the evaluation.

(d) The Commissioner notes some misunderstanding of the purpose of iron enrichment of cereal-based products. Enrichment is aimed at reducing the development of iron deficiency anemia, and is therefore preventive in nature. When demonstrable anemia is already present, indicating a marked depletion of total body iron stores, it is unlikely that iron intakes of the order of the U.S. Recommended Daily Allowance (U.S. RDA) (10 milligrams to 18 milligrams per day, depending on age and sex) will have a therapeutic effect on the anemia except over very long periods of time, if then. Much larger amounts are required for therapy. As a generalization, treatment of moderate to severe iron deficiency anemia usually consists of the oral administration of 300 milligrams of hydrated ferrous sulfate three times a day for a number of months (approximately six months for severe anemia) in addition to the intake of a well-balanced diet. On the basis of average consumption data, the proposed increase in enrichment provides additional daily intakes of 2 milligrams to 4 milligrams of iron, i.e., approximately 10 percent to 20 percent of the U.S. RDA, depending on age and sex. Such increases are therefore modest in magnitude. Because of the high prevalences of anemia, the decrease in total caloric intakes in the U.S. population in recent decades (and the probability of associated decreases in iron intakes), and the fact that the current U.S. diet provides only an average of 6 milligrams or less of iron per 1000 calories, it is reasonable to speculate that the new enrichment levels may be insufficient to markedly influence the prevalence of iron deficiency and associated anemia. However, the Commissioner feels that, in matters such as increases in nutrient enrichment levels in foods which are major contributors to the total diet, it is prudent to take modest steps based on available scientific knowledge, followed by observations of the results obtained over a reasonable period of time, before giving consideration to further changes in enrichment levels. The Commissioner will take steps to stimulate the support of additional research in this area by appropriate Federal Agencies.

(e) Concerning the matter as to whether cereal products generally are the most suitable vehicles for iron enrichment, the Commissioner notes that cereal-based foods, particularly bread and other products made from wheat flour, continue to be the most uniformly consumed major foods in the American diet (except for meat, poultry and fish which are not amenable to enrichment). As noted by the AMA Council on Foods and Nutrition (Journal of the American Medical Association, 220: 855, 1972):

> It has been accepted for decades that, if there exists a need to increase the national supply of dietary iron, enrichment of the most commonly consumed cereal-based foods is the most useful, practical and cheapest approach. In most Western countries, including the United States, wheat based products are more widely consumed than any other class of foods in the entire diet. Current Department of Agriculture food consumption data indicate that approximately one quarter of total calories consumed in the United States is derived from grain products, about two-thirds of which is enriched in accord with existing standards. In addition, grain products contribute a significantly higher proportion of total calories in low income households than in high income ones. The latter point is of particular importance because of the higher prevalence of iron deficiency anemia among low income families.
>
> A corollary to the appropriate enrichment with iron of commonly consumed cereal-based products is the use of restraint in enrichment of other foods. Among the restraining approaches of recent origin are the nutritional guidelines for various classes of processed foods now appearing in the FEDERAL REGISTER, the new regulation on infant formulas, and new regulations in preparation by the FDA for defining the composition of dietary supplements of vitamins and minerals.

The Commissioner concurs with these views expressed by the AMA. The Commissioner also notes that specific target population groups such as adult women during their menstrual life continue to consume significant quantities of bread, rolls and biscuits. There also are no other classes of foods the consumption of which is characteristically high in specific target groups except for milk and milk-based products in infancy and childhood.

The levels for iron and other nutrients in the proposed flour standards were set so that bakers, relying on the enrichment provided in enriched flour, would be able in most instances to produce enriched bread meeting the requirements of the enriched bread standard. Enriched bread can also be made from unenriched flour by the separate addition of the required nutrients at the bakery.

(3) *It was asserted that additional research on efficacy, bioavailability and toxicity of iron should be undertaken and completed before adoption of the proposal to increase the iron enrichment of flour and bread.* This view was expressed by 26 percent of those commenting adversely on the proposal. On the basis of the analyses and conclusions described in paragraphs (1) and (2) above, the Commissioner further concludes that there is adequate current knowledge to establish beyond reasonable doubt that the proposed increase is safe, efficacious, and in the interest of the public health. The matter of defining specific sources of iron suitable for enrichment should be satisfactorily resolved in the near future. The Commissioner notes that the AMA Council on Foods and Nutrition recently reexamined its position on the matter for the third time during the past three years (JAMA, 223: 322, 1973), stating, "The AMA Council on Foods and Nutrition has followed with great interest the arguments for and against additional fortification of flour and bread with iron. It is the considered judgment of the Council that increased fortification is a logical step at the present time to improve iron balance." The AMA Council and all other expert bodies and individuals with whom the FDA has been in contact, whether in favor of or opposed to the proposal, agree that there are gaps in current knowledge concerning efficacy, bioavailability, and toxicity, requiring additional research. The Commissioner fully concurs in the desirability of such future research, and, as noted in paragraphs (1) and (2) above, will take steps to stimulate such research by appropriate agencies as well as to continue application of FDA resources to the remaining questions. The Commissioner initiated review by the Food and Drug Administration of current clinical research on iron efficacy, bioavailability and toxicity supported by Federal agencies. Conclusions from this review are: (a) There are at least seven Federal agencies supporting such research; (b) Although it cannot be measured, much additional support is derived from sources other than the Federal Government; (c) Federal support for clinical research on the specific problem areas exceeds $1 million annually, and supportive biological research on iron is in excess of $1.5 million

annually; (d) Although this does not represent optimal support, it does constitute a significant level of effort, somewhat larger in magnitude and scope than was thought to be the case before the review was undertaken; (e) Assuming continuation of current levels of support, there will be a steady inflow of new clinical information over the next 5 to 10 years concerning iron efficacy, anemia prevalence, and the deleterious effects of anemia on health; (f) There is a modest level of research effort by at least 5 different research groups in the field of iron storage disorders in man, particularly hemochromatosis, which constitutes a substantive effort to improve understanding of the underlying mechanisms involved in abnormal iron absorption, transport and storage; (g) of the three specific problem areas, the subject of iron bioavailability is receiving the least attention, most of the work being performed by one "consortium" of investigators in several medical centers and by the FDA; (h) A number of excellent research approaches to filling major gaps in existing knowledge have come to the attention of the FDA from multiple sources. The Commissioner further notes that much of the future research is costly and will require some years for definitive results, primarily because of the complexity of the research and, in many cases, the need to study large numbers of individuals over prolonged periods.

(4) *It was asserted that the iron enrichment proposal would constitute medication through the grocery store.* This concept was expressed by 15 percent of those expressing opposition to the proposal. The Commissioner feels that this concept generally arose from the misunderstanding of the magnitude of the proposed increases, as discussed in paragraph (2)(d) above. The Commissioner also notes that the prevalence of actual iron deficiency anemia in the United States indicates that many individuals who need medicinal quantities of iron are not receiving a sufficient dietary input of iron. In addition, several physicians were concerned that the increases might mask the anemia resulting from blood loss from gastrointestinal lesions, particularly carcinoma of the bowel, thus delaying diagnosis. It is the opinion of the Commissioner that the small increments in iron intake resulting from the increased enrichment levels would not be sufficient to significantly alter the development of blood loss anemia from such gastrointestinal lesions (see paragraph (2)(d) for further discussion). One physician warned of the contraindications to the use of iron in patients on allopurinol for gout or other chronic hyperuricemias. The Commissioner concludes that this warning applies to the consumption of medicinal quantities of iron over prolonged periods and not to quantities of dietary iron derived from enriched food or foods which are naturally good sources of iron.

(5) *There was concern regarding the whole concept of processed foods and the use of food additives, whether the additives be nutrients or for other purposes.* Seventeen percent of those commenting unfavorably stated these anxieties and their desire to see a return to consumption of "natural" foods. Approximately one-third of the consumers indicated these views. These respondents believed that the food industry removes too much of the nutritional value during processing, including iron, and that replacement of such nutrients is not an acceptable alternative to leaving in more "natural goodness". Some consumers believed enrichment iron to be a contaminant. The Commissioner does not share these views because they are contrary to modern nutrition knowledge and to the realistic abilities of the agricultural and food industry sectors to provide nutritionally adequate food supplies for the nation. The Commissioner notes that foods which have been enriched must be so labeled, permitting them to be readily distinguished from foods which have not been enriched. The availabilty of many unenriched cereal-based products such as whole wheat flour and bread, rye bread, and raisin bread, will not be affected by the order ruling on the proposal. Several respondents indicated that they "did not need iron". The Commissioner sees a failure on the part of these latter individuals to understand the absolute essentiality of iron and other nutrients in the diet.

(6) *It was asserted that there is a need to regulate the addition of iron to other foods.* This subject is addressed in paragraph (2)(e) above in connection with the discussion of cereal-based products as the most suitable vehicle for iron enrichment of the national food supply. The Commissioner concurs with this comment, and feels that, in order to avoid unnecessary or excessive intakes of iron from innumerable sources, the enrichment of commonly consumed cereal-based products must be balanced by restraint in the enrichment of other foods. This is the current policy of the FDA which will continue in the future. Current approaches include: (a) The new regulation for nutrition labeling, published as a final order in the FEDERAL REGISTER of March 14, 1973 (38 FR 6951) which will greatly improve the ability of the consumer to identify the iron content of foods (all foods with added iron or other added nutrients will be required to comply with this regulation); (b) the new regulation creating a procedure for the establishment of nutritional quality guidelines for foods, published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6969), which will limit the amount of added iron (and other added nutrients) in various classes of processed foods to the amounts specified in a guideline regulation, whenever the manufacturer wishes to take advantage of the label declaration that his product provides nutrients in amounts appropriate for that class of foods as determined by the U.S. Government; (c) the new standard of identity for dietary supplements of vitamins and minerals, (21 CFR 80.1) published as a final order in the FEDERAL REGISTER of August 2, 1973 (38 FR 20730), which places upper limits on the amount of iron (and other nutrients) which may be contained in such supplements.

(7) *It was asserted that enrichment of farina should reflect the primary use of the food as a breakfast cereal, and that this food product should not be regulated in the same manner as flour or bread.* The Commissioner concurs with this concept. Accordingly, this final order does not include action pertaining to enriched farina. In a forthcoming issue of the FEDERAL REGISTER, the Commissioner will publish a revised proposal regarding the standard of identity for enriched farina (21 CFR 15.140), together with proposed nutritional quality guidelines for breakfast cereals.

There were a number of matters other than those relating to iron which were raised by those commenting on the proposal. These are described and the Commissioner's conclusions presented below:

(1) *The merit of enrichment with other nutrients (thiamine, riboflavin, niacin and calcium) was questioned.* Approximately 25 percent of those commenting referred to nutrients other than iron, favoring their continued use in enrichment by more than two to one. Consumers were the only group registering significant opposition, usually by being opposed to enrichment in any form and in favor of less processed food in the market place generally. Support, and no major objections, relative to these other nutrients were expressed by professional scientists and physicians, government agencies and industrial groups. As in the case of enrichment with iron, the Commissioner does not share the views of those opposed to all enrichment because such views are contrary to modern nutrition knowledge. The Commissioner further notes that, as knowledge of nutrient requirements and deficits in the national diet increases, there may arise in the future a need to further improve enrichment of flour, bread and other cereal products by the addition of other nutrients in short supply in the diet.

(2) *Several comments were received concerning niacin, requesting more specific designation in the standards of the allowable chemical forms, and authorization to use niacin equivalents of tryptophan.* The Commissioner notes that any vitamin or mineral added to a food for enrichment purposes may be supplied by any suitable chemically synthesized or naturally produced substance which is either not a food additive as defined in section 201(s) of the act, or which is a food additive as so defined and used in conformity with regulations established pursuant to section 409 of the act. The Commisioner further notes that the actual amount of the active component of a vitamin depends on the chemical form in which the nutrient is supplied, and that, as a result, there is a need to establish chemically identifiable reference forms for determining and declaring the quantities of the vitamin present in the food. Therefore, the final regulations include reference forms to be used in calculating the quantitative content of thiamine, riboflavin, and niacin.

With regard to niacin equivalents, as derived from tryptophan, the Commissioner concludes that the quantitative contribution of tryptophan to total niacin activity in these enriched foods is variable and that the quantitative determination of niacin equivalents in these foods is subject to serious practical limitations regarding as an analytical methodology for quality control and compliance purposes. The Commissioner notes that, although the conversion of a portion of tryptophan intake to niacin is a well-established nutrition principle, there is currently inadequate knowledge of the magnitude of such conversion resulting from the consumption of specific individual foods. For the sake of a consistent approach to such nutritional matters, if calculation of niacin equivalents derived from tryptophan were permitted in this regulation, it would be necessary to permit the use of niacin equivalents derived from tryptophan in other regulations necessitating niacin calculations. Therefore, for the present, the use of niacin equivalents is rejected for declaring total niacin activity. As further knowledge accumulates and improved analytical procedures become available, the Commissioner will welcome reexamination of the matter.

(3) *Several correspondents commented on an inconsistency in the proposed regulations concerning calcium.* In the proposal published in the FEDERAL REGISTER on December 3, 1971 (36 FR 23074), as well as in the currently effective standards, added calcium is designated as optional in enriched flour and enriched bread, rolls or buns but as mandatory in enriched self-rising flour. After considering the comments, the Commissioner is deleting the mandatory requirement for added calcium in enriched self-rising flour, thus making added calcium optional in the three standards covered by this order.

(4) *The proposal to delete the provisions in these standards for the addition of vitamin D was in general acceptable or desirable to the several individuals and groups commenting on the subject.* Historically, few flour and bread products have been enriched with vitamin D. The need for vitamin D in human nutrition and the importance of maintaining a daily intake sufficient to protect infants, growing children and pregnant and lactating women from developing deficiency states are well established. However, the addition of vitamin D to flour and bread products is unnecessary in light of the availability and use of vitamin D fortified dairy products, infant formulas and dietary supplements. To continue to permit addition of vitamin D to flour and bread products could result in excessive consumption of vitamin D. Accordingly, the Commissioner concludes that flour and bread products are not appropriate carriers of vitamin D.

An alternate suggestion was received from one respondent to continue the provisions permitting vitamin D addition, but to substitute metabolities of the vitamin showing less toxicity compared with the chemical forms of vitamin D presently used. Although the Commissioner feels that the concept of using such metabolites in the future in those foods suitable for vitamin D enrichment warrants further study as to efficacy, safety and practical feasibility, he reiterates his conclusion that flour and bread products are not appropriate carriers of vitamin D in the national diet.

(5) *Several suggestions were made that the regulations should define the precise meaning of "reasonable overages of the vitamins and minerals within the limits of good manufacturing practice".* The Commissioner reiterates his desire for uniformity of enrichment among these enriched food products. Designation of allowable overage amounts automatically provides for a range of nutrient levels, thus reducing the possibility of attaining the desired uniformity. The Commissioner advises that matters of good manufacturing practices will continue to be judged on the basis of the multiple factors involved, including technology, nutrient deterioration, and the appreciation of these factors by the manufacturer in his food processing and quality control procedures.

(6) *Comments were received from industry suggesting that the effective date should be six months or more after the date of publication of the orders to allow for utilization of existing labeling inventory and changeover in manufacturing processes.* The Commissioner concurs.

(7) *Other suggestions regarding future action.* As a legal matter, these were not within the scope of the proposed rulemaking but are worthy of further consideration for possible action in the future, including: (a) extension of such enrichment to other food products, particularly the other basic staples which substitute for flour and bread in the national and regional or ethnic diets; (b) extension of such enrichment to other nutrients which may be deficient in the diets of major segments of the total population; (c) the need for nutrition education programs in conjunction with enrichment programs.

Accordingly, having considered the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interests of consumers to rule jointly on the proposals published in the FEDERAL REGISTERS of April 1, 1970 (35 FR 5412), and December 3, 1971 (36 FR 23074), by adopting the proposed amendments as modified and set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That Parts 15 and 17 be amended as follows:

1. In Part 15:

a. By revising § 15.10 to read as follows:

§ 15.10 Enriched flour; identity; label statement of optional ingredients.

Enriched flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for flour by § 15.1 of this chapter, except that:

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron;

(b) It may contain added calcium in such quantity that the total calcium content is 960 milligrams per pound. Enriched flour may be acidified with monocalcium phosphate within the limits prescribed by § 15.70 for phosphated flour, but, if insufficient additional calcium is present to meet the 960 milligram level, no claim may be made on the label for calcium as a nutrient;

(c) The requirement of paragraphs (a) and (b) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form		
	Name	Empirical formula	Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS.HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

(d) It may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ;

(e) In determining whether the ash content complies with the requirements of this section, ash resulting from any added iron or salts of iron or calcium is included in calculating ash content.

(f) All ingredients from which the food is fabricated shall be safe and suitable. The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substance. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

b. By revising § 15.60 to read as follows:

§ 15.60 Enriched self-rising flour; identity; label statement of optional ingredients.

Enriched self-rising flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for self-rising flour by § 15.50, except that:

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron;

(b) It may contain added calcium in such quantity that the total calcium con-

tent is 960 milligrams per pound. If a calcium compound is added for technical purposes to give self-rising characteristics to the flour, the amount of calcium per pound of flour may exceed 960 milligrams provided that the excess is no greater than necessary to accomplish the intended effect. However, if such calcium is insufficient to meet the 960 milligram level, no claim may be made on the label for calcium as a nutrient;

(c) The requirements of paragraphs (a) and (b) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form		
	Name	Empirical formula	Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS.HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

(d) It may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ;

(e) When calcium is added as dicalcium phosphate, such dicalcium phosphate is also considered to be an acid-reacting substance;

(f) When calcium is added as carbonate, the method set forth in § 15.50 (c) does not apply as a test for carbon dioxide evolved; but in such case the quantity of carbon dioxide evolved under ordinary conditions of use of the enriched self-rising flour is not less than 0.5 percent of the weight thereof;

(g) All ingredients from which the food is fabricated shall be safe and suitable. The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substances. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

2. In Part 17 by revising § 17.2 to read as follows:

§ 17.2 Enriched bread and enriched rolls or enriched buns; identity; label statements of optional ingredients.

(a) Each of the foods enriched bread, enriched rolls, and enriched buns conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for bread by § 17.1 (a) and (c) of this chapter, except that:

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 25 milligrams of iron;

(2) Each such food may contain added calcium in such quantity that the total calcium content is 600 milligrams per pound of the finished food. If insufficient calcium is added to meet the 600 milligram level per pound of the finished food, no claim may be made on the label for calcium as a nutrient;

(3) The requirements of paragraphs (a) (1) and (2) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form		
	Name	Empirical formula	Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS.HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

(4) Each such food may also contain wheat germ or partly defatted wheat germ, but the total quantity thereof, including any wheat germ or partly defatted wheat germ in any enriched flour used, shall not be more than 5 percent of the flour ingredient;

(5) Enriched flour may be used, in whole or in part, instead of flour. As used in this section, the unqualified term "flour" includes bromated flour and phosphated flour; the term "enriched flour" includes enriched bromated flour;

(6) The limitation prescribed by § 17.1(a) (2) of this chapter on the quantity and composition of milk and dairy ingredients does not apply;

(7) All ingredients, from which the food is fabricated shall be safe and suitable. The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substances. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

(b) (1) Enriched bread is baked in units each of which weighs one-half pound or more after cooling. Enriched rolls or enriched buns are baked in units each of which weighs less than one-half pound after cooling.

(2) The optional gluten ingredient described in § 17.1(b) (2) of this chapter may be added in such quantity that for each 100 parts by weight of flour used, the added gluten does not exceed 2 parts for dough used to make loaves and does not exceed 4 parts for dough used to make rolls or buns.

Any person who will be adversely affected by the foregoing order may at any time on or before November 14, 1973 file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Compliance with this order, which shall include any labeling changes required, may begin immediately and shall begin on April 15, 1973, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 241, 371)

Dated October 9, 1973.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.73-21918 Filed 10-12-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7285]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Use of the Full Absorption Method of Inventory Costing

Correction

In FR Doc. 73-19930 appearing at page 26184 in the issue of Wednesday, September 19, 1973, where the words "[the date of adoption of these regulations as a Treasury decision]" appear in § 1.471-11(e) (i) (ii), substitute the date "September 19, 1973."

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Emissions During Startup, Shutdown, and Malfunction

The Environmental Protection Agency promulgated Standards of Performance for New Stationary Sources pursuant to section 111 of the Clean Air Act Amend-

ments of 1970, 40 U.S.C. 1857c–6, on December 23, 1971, for fossil fuel-fired steam generators, incinerators, Portland cement plants, and nitric and sulfuric acid plants (36 F.R. 24876), and proposed Standards of Performance on June 11, 1973, for asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, and sewage treatment plants (38 FR 15406). New or modified sources in these categories are required to meet standards for emissions of air pollutants which reflect the degree of emissions limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

Sources which ordinarily comply with the standards may during periods of startup, shutdown, or malfunction unavoidably release pollutants in excess of the standards. These regulations make it clear that compliance with emission standards, other than opacity standards, is determined through performance tests conducted under representative conditions. It is anticipated that the initial performance test and subsequent performance tests will ensure that equipment is installed which will permit the standards to be attained and that such equipment is not allowed to deteriorate to the point where the standards are no longer maintained. In addition, these regulations require that the plant operator use maintenance and operating procedures designed to minimize emissions. This requirement will ensure that plant operators properly maintain and operate the affected facility and control equipment between performance tests and during periods of startup, shutdown, and unavoidable malfunction.

The Environmental Protection Agency on August 25, 1972, proposed procedures pursuant to which new sources could be deemed not to be in violation of the new source performance standards if emissions during startup, shutdown, and malfunction unavoidably exceed the standards (37 FR 17214). Comments received were strongly critical of the reporting requirements and the lack of criteria for determining when a malfunction occurs.

In response to these comments, the Environmental Protection Agency rescinded the August 25, 1972, proposal and published a new proposal on May 2, 1973 (38 FR 17214). The purpose and reasoning in support of the May 2, 1973, proposal are set forth in the preamble to the proposal. As these regulations being promulgated are in substance the same as those of the May 2, 1973, proposal, this preamble will discuss only the comments received in response to the proposal and changes made to the proposal.

A total of 28 responses were received concerning the proposal (38 FR 10820). Twenty-one responses were received from the industrial sector, three from State and local air pollution control agencies, and four from EPA representatives.

Some air pollution control agencies expressed a preference for more detailed reporting and for requiring reporting immediately following malfunctions and preceding startups and shutdowns in order to facilitate handling citizens' complaints and emergency situations. Since States already have authority to require such reporting and since promulgation of these reporting requirements does not preclude any State from requiring more detailed or more frequent reporting, no changes were deemed necessary.

Some comments indicated that changes were needed to more specifically define those periods of emissions that must be reported on a quarterly basis. The regulations have been revised to respond to this comment. Those periods which must be reported are defined in applicable subparts. Continuous monitoring measurements will be used for determining those emissions which must be reported. Periods of excess emissions will be averaged over specified time periods in accordance with appropriate subparts. Automatic recorders are currently available that produce records on magnetic tapes that can be processed by a central computing system for the purpose of arriving at the necessary averages. By this method and by deletion of requirements for making emission estimates, only minimal time will be required by plant operators in preparing quarterly reports. The time period for making quarterly reports has been extended to 30 days beyond the end of the quarter to allow sufficient time for preparing necessary reports.

The May 2, 1973, proposal required that affected facilities be operated and maintained "in a manner consistent with operations during the most recent performance test indicating compliance." Comments were received questioning whether it would be possible or wise to require that all of the operating conditions that happened to exist during the most recent performance test be continually maintained. In response to these comments, EPA revised this requirement to provide that affected facilities shall be operated and maintained "in a manner consistent with good air pollution control practice for minimizing emissions" (§ 60.11(d)).

Comments were received indicating concern that the proposed regulations would grant license to sources to continue operating after malfunctions are detected. The provision of § 60.11(d) requires that good operating and maintenance practices be followed and thereby precludes continued operation in a malfunctioning condition.

This regulation is promulgated pursuant to sections 111 and 114 of the Clean Air Act as amended (42 U.S.C. 1857c–b, 1857c–9).

This amendment is effective November 14, 1973.

Dated October 10, 1973.

JOHN QUARLES,
Acting Administrator.

Part 60 of Title 40, Code of Federal Regulations is amended as follows:

1. Section 60.2 is amended by adding paragraphs (p), (q), and (r) as follows:

§ 60.2 Definitions.

* * * * *

(p) "Shutdown" means the cessation of operation of an affected facility for any purpose.

(q) "Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

(r) "Hourly period" means any 60 minute period commencing on the hour.

2. Section 60.7 is amended by adding paragraph (c) as follows:

§ 60.7 Notification and recordkeeping.

* * * * *

(c) A written report of excess emissions as defined in applicable subparts shall be submitted to the Administrator by each owner or operator for each calendar quarter. The report shall include the magnitude of excess emissions as measured by the required monitoring equipment reduced to the units of the applicable standard, the date, and time of commencement and completion of each period of excess emissions. Periods of excess emissions due to startup, shutdown, and malfunction shall be specifically identified. The nature and cause of any malfunction (if known), the corrective action taken, or preventive measures adopted shall be reported. Each quarterly report is due by the 30th day following the end of the calendar quarter. Reports are not required for any quarter unless there have been periods of excess emissions.

3. Section 60.8 is amended by revising paragraph (c) to read as follows:

§ 60.8 Performance tests.

* * * * *

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.

4. A new § 60.11 is added as follows:

§ 60.11 Compliance with standards and maintenance requirements.

(a) Compliance with standards in this part, other than opacity standards, shall be determined only by performance tests established by § 60.8.

(b) Compliance with opacity standards in this part shall be determined by use of Test Method 9 of the appendix.

(c) The opacity standards set forth in this part shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

5. A new paragraph is added to § 60.45 as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(g) For the purpose of reports required pursuant to § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

(1) Opacity. All hourly periods during which there are three or more one-minute periods when the average opacity exceeds 20 percent.

(2) Sulfur dioxide. Any two consecutive hourly periods during which average sulfur dioxide emissions exceed 0.80 pound per million B.t.u. heat input for liquid fossil fuel burning equipment or exceed 1.2 pound per million B.t.u. heat input for solid fossil fuel burning equipment; or for sources which elect to conduct representatives analyses of fuels in accordance with paragraph (c) or (d) of this section in lieu of installing and operating a monitoring device pursuant to paragraph (a)(2) of this section, any calendar day during which fuel analysis shows that the limits of § 60.43 are exceeded.

(3) Nitrogen oxides. Any two consecutive hourly periods during which the average nitrogen oxides emissions exceed 0.20 pound per million B.t.u. heat input for gaseous fossil fuel burning equipment, or exceed 0.30 pound per million B.t.u. for liquid fossil fuel burning equipment, or exceed 0.70 pound per million B.t.u. heat input for solid fossil fuel burning equipment.

6. A new paragraph is added to § 60.73 as follows:

§ 60.73 Emission monitoring.

* * * * *

(e) For the purpose of making written reports pursuant to § 60.7(c), periods of excess emissions that shall be reported are defined as any two consecutive hourly periods during which average nitrogen oxides emissions exceed 3 pounds per ton of acid produced.

.7. A new paragraph is added to § 60.84 as follows:

§ 60.84 Emission monitoring.

* * * * *

(e) For the purpose of making written reports pursuant to § 60.7(c), periods of excess emissions that shall be reported are defined as any two consecutive hourly periods during which average sulfur dioxide emissions exceed 4 pounds per ton of acid produced.

[FR Doc.73-21896 Filed 10-12-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-134]

GSA SUPPLY CATALOG

Miscellaneous Amendments

This amendment deletes references to the GSA Stock Catalog and Guide to Sources of Supply and Service which have been consolidated into a single publication titled "GSA Supply Catalog," and the Management Data List, which has been discontinued. Other minor editorial corrections are included.

The table of contents for Parts 101-26, 101-27, and 101-30 is amended as follows:

Sec.

101-26.402-4	Schedule identification.
101-27.204-2	[Reserved]
101-30.603-1	[Reserved]
101-30.603-2	GSA Supply Catalog.
101-30.603-3	[Reserved]
101-30.603-6	Special Notices.

PART 101-25—GENERAL

Subpart 101-25.4—Replacement Standards

Section 101-25.404 is revised to read as follows:

§ 101-25.404 Furniture.

Furniture (office, household and quarters, and institutional) shall not be replaced unless the estimated cost of repair or rehabilitation (based on GSA term contracts), including any transportation expense, exceeds at least 75 percent of the cost of a new item of the same type and class (based on prices as shown in the current edition of the GSA Supply Catalog, applicable Federal Supply Schedules, or the lowest available market price). An exception is authorized in those unusual situations in which rehabilitation of the furniture at 75 percent or less of the cost of a new item would not extend its useful life for a period compatible with the cost of rehabilitation as determined by the agency head or his designee.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.2—Federal Requisitioning System

Section 101-26.201(e) is revised and 101-26.203-1 is amended to read as follows:

§ 101-26.201 General.

* * * * *

(e) Incorporation of codes in the multicopy shipping document which are significant to the agencies on GSA supply distribution facilities shipments; and

* * * * *

§ 101-26.203-1 Forms prepared by ordering offices.

The forms set forth in this § 101-26.203-1 are prescribed for use in the FEDSTRIP system and may be obtained in accordance with the instructions provided in the GSA Supply Catalog.

* * * * *

Subpart 101-26.3—Procurement of GSA Stock Items

Section 101-26.301 is amended and §§ 101-26.301-1(a), 101-26.301-2, 101-26.302(c), 101-26.307-3, and 101-26.310 (a) (1) and (3) are revised to read as follows:

§ 101-26.301 Applicability.

All executive agencies within the United States (including Hawaii and Alaska) shall requisition from GSA their requirements of stock items available from GSA supply distribution facilities, including requirements for items which originate outside the United States but which are required, by agency instruction or otherwise, to be requisitioned in the United States except as provided in this § 101-26.301 and as may be otherwise specifically authorized. (Items available from GSA stock, including GSA self-service stores, are listed or described in the GSA Supply Catalog which is issued in accordance with Subpart 101-30.6.) Federal agencies not required to requisition stock items from GSA are encouraged to do so.

* * * * *

§ 101-26.301-1 Similar items.

(a) Agencies required to requisition, exclusively, items listed in the GSA Supply Catalog shall utilize such items in lieu of procuring similar items from other sources when the GSA items will adequately serve the required functional end-use purpose.

* * * * *

§ 101-26.301-2 Issue of used, repaired, and rehabilitated items in serviceable condition.

Stock items returned to GSA under the provisions of Subpart 101-27.5 will be reissued to all requisitioning activities without distinction between new, used, repaired, or rehabilitated items in serviceable condition. Requisitioning agencies will be billed for these items at the current GSA selling price.

§ 101-26.302 Standard and optional forms.

* * * * *

(c) Forms or form assemblies which deviate in any manner from those listed in the GSA Supply Catalog are not stocked or distributed by GSA. Agencies requiring such nonstock forms shall pre-

pare and transmit a Standard Form 1, Printing and Binding Requisition, or Standard Form 1–C, Printing and Binding Requisition for Specialty Items, whichever is appropriate, to General Services Administration (3FX), Washington, D.C. 20407, for review and submission to GPO.

* * * * *

§ 101–26.307–3 Inquiries relating to GSA shipments.

Inquiries relating to shipments made from or directed by GSA should be directed to the appropriate GSA regional office shown in the current edition of the GSA Supply Catalog.

§ 101–26.310 Ordering and shipping errors.

* * * * *

(a) * * *

(1) The value of the material exceeds $10 per line item based on the selling price billed the customer.

* * * * *

(3) Each item is in "like-new" condition and is identified by a stock number in the current edition of the GSA Supply Catalog.

* * * * *

Subpart 101–26.4—Purchase of Items from Federal Supply Schedule Contracts

Sections 101–26.401(b), 101–26.401–1, and 101–26.402–4 are revised to read as follows:

§ 101–26.401 Applicability.

* * * * *

(b) The GSA Supply Catalog is a ready reference for information on commodities and services available from Federal Supply Schedules.

§ 101–26.401–1 Mandatory use of schedules.

Federal Supply Schedules are mandatory to the extent specified in each schedule. The GSA Supply Catalog provides summary information as to mandatory coverage of each schedule. In the event of any apparent conflict, the provisions of the schedule are governing. Newly developed schedules and some other schedules may be mandatory to only one or to a small number of agencies. One schedule is entirely optional, and is the only exception to mandatory coverage; it is the schedule covering Motor Vehicle Parts and Accessories (FSC Groups 25, 28, 29, 38, and 39).

§ 101–26.402–4 Schedule identification.

The GSA Supply Catalog includes a listing of schedules and information pertinent thereto with the distribution code number for each schedule and catalog. Accordingly, agency offices should consult the latest edition of the GSA Supply Catalog or change bulletin to the GSA Supply Catalog before submitting requests for schedules and catalogs as provided in § 101–26.402–3.

Subpart 101–26.5—GSA Procurement Programs

Sections 101–26.502–1(b) and (c) are revised to read as follows:

§ 101–26.502–1 Submission of purchase authorities.

* * * * *

(b) Purchase authorities submitted for other than GSA Supply Catalog items shall be complete as to type, size, description, and electrical current characteristics (AC or DC, phase, voltage, and cycles), and shall also include required delivery date, consignment and shipping instructions, and other pertinent information.

(c) Requisitions received for water coolers (dispensers) listed in the current GSA Supply Catalog will be filled by issue from stock unless the GSA regional office receiving the requisition determines that direct delivery would be more advantageous to the Government, price and other factors considered.

Subpart 101–26.6—Procurement Sources Other than GSA

Section 101–26.602–2(a) is revised to read as follows:

§ 101–26.602–2 Procurement of packaged petroleum products.

(a) Items in Federal Supply Catalogs C9100–ML–CA and C9100–IL–CA covering FSC class 9150—Oils and Greases and FSC class 9160—Miscellaneous Waxes, Oils, and Fats, shall be obtained by submitting requisitions in FEDSTRIP/MILSTRIP format to the Defense General Supply Center (DGSC), Richmond, VA 33219, using routing identifier code S9G. Requisitions for packaged petroleum items not included in these catalogs and not otherwise included in Defense Fuel Supply Center (DFSC) procurements under the provisions of § 101–26.602–1 may be submitted to DGSC. DGSC will supply items requisitioned from inventory or will refer the requisition to the DFSC for purchase and direct delivery to the requisitioner. Packaged petroleum items may be obtained from other Federal activities by agreement with the activity concerned or from local purchase sources when such action is authorized under the provisions of the Defense Supply Agency (DSA) local purchase policy described in subparagraph (b), below.

* * * * *

PART 101–27—INVENTORY MANAGEMENT

Subpart 101–27.1—Stock Replenishment

Section 101–27.102–2 is revised to read as follows:

§ 101–27.102–2 Guidelines.

Guidelines for development of appropriate implementation of the EOQ principle of stock replenishment are described in the GSA Handbook, The Economic Order Quantity Principle and Applications, issued by the Commissioner, Federal Supply Service, GSA. The handbook is identified under Federal stock number 7610–543–6765 in the GSA Supply Catalog, and copies may be ordered in the same manner as other items in that catalog. In addition, the handbook is available to the public from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Subpart 101–27.2—Management of Shelf-Life Materials

§ 101–27.204–2 [Reserved]

Section 101–27.204–2 is deleted and reserved as follows:

Subpart 101–27.3—Maximizing Use of Inventories

§ 101–27.304–1 Establishment of economic retention limit.

Section 101–27.304–1(a) is revised to read as follows:

* * * * *

(a) The agency managing a centrally managed or agency managed item shall establish an economic retention limit so that the total cumulative cost of carrying a stock of the item (including interest on the capital that is tied up in the accumulated carrying costs) will be no greater than the reacquisition cost of the stock (including the procurement or order cost). Consideration should be given to any significant net return that might be realized from present disposal of the stock. Where no information has been issued, the net return from disposal is assumed to be zero. Guidelines for setting stock retention limits are provided in the following table and explanatory remarks that follow:

Annual carrying costs as a percentage of item reacquisition costs	Economic retention limit in years of supply		
	Net return on disposal as a percentage of item reacquisition costs		
	0	10	20
10	8½	7¼	6½
15	6	5¼	4¾
20	4¾	4¼	3¾
25	3¾	3½	3

Annual carrying costs as a percentage of item reacquisition costs	Economic retention limit in years of supply		
	Net return on disposal as a percentage of item reacquisition costs		
	0	10	20

NOTE.—The entries in the tables were calculated by determining how long an item must be carried in inventory before the total cumulative carrying costs (including interest on the additional funds that would be tied up in the accumulated annual carrying costs) would exceed the acquisition costs of the stock at that time (reacquisition costs). For example, assuming no net return from

disposal, the accumulated carrying costs computed at the rate of 15 percent per year on the reacquisition cost of the stock and compounded annually at 4½ percent (GSA's recommended rate of interest on Government investments) would be:

Years	Compounded carrying costs as a percentage of reacquisition costs	Accumulated costs as a percentage of reacquisition costs
1	15.7	15.7
2	16.4	32.1
3	17.1	49.2
4	17.9	67.1
5	18.7	85.8
6	19.5	105.3

At 15 percent a year, accumulated carrying costs would be equivalent to the reacquisition costs after 6 years. Six years is, therefore, the economic retention limit for items with a 15 percent annual carrying cost rate. Where an activity has not yet established an estimate of its carrying cost, an annual rate of 10 percent may be used as an interim rate thereby resulting in an economic retention limit of 8½ years when the net return on disposal is zero. The elements of carrying (holding) cost are given in the GSA Handbook, The Economic Order Quantity Principle and Applications. The handbook is identified under Federal Stock Number 7610-543-6765 in the GSA Supply Catalog and may be ordered in the same manner as other items in the catalog.

* * * * *

Subpart 101-27.5—Return of GSA Stock Items

Sections 101-27.502 (a) and (d) and 101-27.503-1 are revised and 101-27.503-2 is amended to read as follows:

§ 101-27.502 Criteria for return.

* * * * *

(a) The minimum dollar value per line item based on the current GSA selling price shall be:

* * * * *

(d) The cost to repair unserviceable material or to replace missing parts or components in such material shall not exceed 60 percent of the current GSA selling price.

§ 101-27.503-1 Serviceable material.

Credit will be granted at the rate of 80 percent of the current GSA selling price after acceptance by GSA for new, used, repaired, or reconditioned material which is serviceable and issuable to all agencies without limitation or restriction (condition code A).

§ 101-27.503-2 Unserviceable or incomplete material.

Credit will be granted at the rate of 30 percent of the current GSA selling price after acceptance by GSA for unserviceable or incomplete material when such material:

* * * * *

PART 101-30—FEDERAL CATALOG SYSTEM

Subpart 101-30.6—GSA Section of the Federal Supply Catalog

§ 101-30.603-1 [Reserved]

1. Section 101-30.603-1 is deleted and reserved as follows:

§ 101-30.603-2 GSA Supply Catalog.

2. Section 101-30.603-2 is revised to read as follows:

This catalog, published annually, is an illustrated publication which serves as the primary source for identifying items and services available through GSA supply sources. The GSA Supply Catalog consists of the following sections:

(a) *Section 1—Alphabetical Index.* This section is divided into three parts, Commodities, Services, and Titles (Printed Forms).

(b) *Section 2—Descriptive and Illustrative.* This section contains information for approximately 21,000 common use items centrally managed, stocked, and issued through GSA supply distribution facilities.

(c) *Section 3—Federal Supply Schedule Index.* This section lists current schedules, geographical coverage, and primary users and provides telephone numbers for the office administering the schedule. It is divided into two parts, Commodities and Services.

(d) *Section 4—FSS Term Contract Index.* This section lists commodities and services available from contracts administered by GSA Central Office and regional offices for use by ordering offices within specified areas.

(e) *Section 5—PMDS Term Contract Index.* This section lists maintenance, repair, and rehabilitation contracts administered by regional offices for use by ordering offices within specified areas.

(f) *Section 6—Federal Stock Number Index.* This section lists all items assigned Federal stock numbers centrally managed, stocked, and issued by GSA supply distribution facilities. Also listed are certain centrally managed nonstocked items for which orders are placed, upon receipt of a requisition, and filled by direct shipment from contractors.

§ 101-30.603-3 [Reserved]

3. Section 101-30.603-3 is deleted and reserved as follows:

4. Section 101-30.603-5 is revised to read as follows:

§ 101-30.603-5 Change bulletins.

Changes to the GSA Supply Catalog are effected by quarterly cumulative publications entitled "Change Bulletin to the GSA Supply Catalog." These change bulletins will serve as the media to notify agencies of additions, deletions, and other pertinent changes occurring between the annual publication of the GSA Supply Catalog.

5. Section 101-30.603-6 is added to read as follows:

§ 101-30.603-6 Special Notices.

Special Notices will be issued on a nonschedule basis to advise agencies of program changes, general information, or additions, deletions, and other pertinent changes to the GSA Supply Catalog.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective October 1, 1973.

Dated October 3, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.73-21693 Filed 10-12-73;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5399]

[Colorado 13068]

COLORADO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. 416 (1970), *it is ordered* as follows:

1. Public Land Order No. 2632 of March 13, 1962, withdrawing lands for the Savery-Pot Hook Project, Colorado, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

(PUBLIC LANDS)

T. 11 N., R. 91 W.,
Sec. 4, lots 7, 8, 13, 14, 17 thru 20;
Sec. 7, lots 6 thru 14, 19, 20;
Sec. 8, lots 1 thru 14;
Sec. 9, lots 1 thru 16;
Sec. 17, lots 1 thru 7;
Sec. 18, lots 5, 6, 12, 13, 20;
Sec. 19, lots 5, 6, 11 thru 14, 19, 20;
Sec. 20, lot 3;
Sec. 30, lots 5 and 6.
T. 12 N., R. 91 W.,
Sec. 20, lot 7, and that portion of lot 8 now identified as lots 14 and 15;
Sec. 21, SW¼NE¼, SE¼NW¼, S½;
Sec. 22, lots 11 and 12;
Sec. 29, lots 1, 8, 9, 14, 15, 16;
Sec. 32, lots 1, 4 thru 7, 10 thru 12.
T. 8 N., R. 96 W.,
Sec. 6, lots 2, 6, 11, 14, 21, 22.
T. 9 N., R. 96 W.,
Sec. 20, NE¼;
Sec. 29, lots 7 thru 10, 18, S½NE¼;
Sec. 31, lots 21, 22, 23, 35, 36;
Sec. 32, lots 6 thru 10, 12 and 13.
T. 7 S., R. 97 W.,
Sec. 5, lot 4, SW¼NW¼, NW¼SW¼;
Sec. 6, lots 1, 2, 5, 6, 13, S½NE¼, NE¼SW¼, N½SE¼.
T. 8 N., R. 97 W.,
Sec. 1, lots 14, 15, 17 thru 20, S½;
Sec. 10, S½NE¼, SE¼;
Sec. 11, S½NE¼, W½NW¼, SW¼, W½SE¼, NE¼SE¼;

Sec. 12, NW¼NW¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½;
Sec. 16, E½;
Sec. 21, lot 12, NE¼, N½SE¼, SW¼SE¼;
Sec. 28, NW¼NW¼;
Sec. 29, lots 9 thru 11, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 32, NE¼NW¼, SW¼NW¼, W½SW¼.
T. 6 N., R. 98 W.,
Sec. 5, lots 6 thru 8, 12, 17, 21, SW¼NW¼;
Sec. 6, lot 8, SE¼NE¼, E½SE¼;
Sec. 7, lot 9, NE¼, E½SW¼;
Sec. 8, lots 6, 7, 17;
Sec. 16, lots 1 thru 4, W½NW¼, SE¼NW¼;
Sec. 17, lot 1;
Sec. 18, lot 8, E½W½;
Sec. 19, lots 5, 6, 12.
T. 7 N., R. 98 W.,
Sec. 1, lots 11 thru 14, S½SW¼, NE¼SE¼;
Sec. 2, lot 21;
Sec. 11, E½NE¼;
Sec. 29, SE¼SW¼;
Sec. 32, lot 3, W½NW¼, NW¼SW¼, W½SW¼SW¼.

(Patented Lands)

T. 11 N., R. 91 W.,
Sec. 2, lots 7, 8, and 9;
Sec. 3, lot 19;
Sec. 10, lots 1 and 2;
Sec. 11, lots 3 and 4;
Sec. 14, lot 16;
Sec. 15, lots 8 and 9;
Sec. 22, lot 10;
Sec. 23, lots 1 and 8.
T. 12 N., R. 91 W.,
Sec. 20, that portion of lot 8 now described as lot 16.

The areas described aggregate 9,814.48 acres of public land, and 544.05 acres of patented land, for a total of 10,358.53 acres in Moffat County.

Of the public lands described above the following are withdrawn for Powersite Classification No. 87 by the Secretary's Order of February 14, 1925:

T. 6 N., R. 98 W.,
Sec. 5, lot 6;
Sec. 7, lot 9, SE¼NE¼;
Sec. 8, lots 7 and 17;
Sec. 18, SE¼NW¼, E½SW¼;
Sec. 19, lots 5, 6, and 12.
T. 7 N., R. 98 W.,
Sec. 29, SE¼SW¼;
Sec. 32, lot 3, SW¼NW¼.

The following public lands are withdrawn for Public Water Reserve No. 143 by Executive Order No. 5672 of August 3, 1931:

T. 8 N., R. 97 W.,
Sec. 1, W½SW¼;
Sec. 29, lot 9.

The following are withdrawn for oil shale by Executive Order No. 5327 of April 15, 1930, and as supplemented by Public Land Order No. 4522 of September 13, 1968, from appropriation under the United States mining laws for metalliferous minerals and from leasing for sodium under the mineral leasing laws:

T. 8 N., R. 97 W.,
Sec. 1, lots 14, 15, 17 thru 20, S½;
Sec. 10, S½NE¼, SE¼;
Sec. 11, S½NE¼, W½NW¼, SW¼, W½SE¼, NE¼SE¼;
Sec. 12, NW¼NW¼;
Sec. 14, NW¼NW¼;
Sec. 15, N½;
Sec. 16, E½;
Sec. 21, lot 12, NE¼, N½SE¼, SW¼SE¼;
Sec. 28, NW¼NW¼;
Sec. 29, lots 9 thru 11, E½SW¼, N½SE¼, SW¼SE¼.

2. Excepting those lands withdrawn for Powersite Classification No. 87, Public Water Reserve No. 143, and for oil shale by Executive Order No. 5327, and Public Land Order No. 4522, subject to valid existing rights, the public lands described in paragraph 1 of this order, shall be open to the operation of the public land laws generally at 10 a.m. on November 14, 1973. All applications received at or prior to 10 a.m. on November 14, 1973, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Excepting those lands withdrawn for oil shale purposes under Executive Order No. 5327 and Public Land Order No. 4522, and for Public Water Reserve No. 143 under Executive Order No. 5672, the public lands described herein shall be open to location and entry under the U.S. mining laws at 10 a.m. on November 14, 1973. Location or entry of those lands withdrawn under Powersite Classification No. 87 will be subject to the terms and conditions of the Act of August 11, 1955, 30 U.S.C. 621 (1970). The lands involved will continue to be open to applications and offers under the mineral leasing laws except that the lands withdrawn by Public Land Order No. 4522 are not open to leasing for sodium.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

JACK O. HORTON,
Assistant Secretary of the Interior.

OCTOBER 9, 1973.

[FR Doc.73-21848 Filed 10-12-73;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 73-23; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection and Rims for Passenger Cars

This amendment adds certain tire size designations to 49 CFR 571.109 (Federal Motor Vehicle Safety Standard No. 109) and adds alternative and test rim sizes to 49 CFR 571.110 (Federal Motor Vehicle Safety Standard No. 110).

On October 5, 1968, guidelines were published in the FEDERAL REGISTER (33 FR 14964) by which routine additions could be made to Appendix A, § 571.109, and to Appendix A, § 571.110. Under these guidelines the additions become effective 30 days from publication in the FEDERAL REGISTER, if no objections are received. If objections are received, rule making procedures for the issuance of motor vehicle safety standards (49 CFR Part 553) are followed.

Accordingly, Appendix A of 49 CFR § 571.109 and Appendix A of 49 CFR § 571.110 are amended, subject to the 30-day provision indicated above, as specified below.

Effective date: November 9, 1973, if objections are not received.

A. The following changes are made to Appendix A of § 571.109, Standard No. 109; New Pneumatic Tires:

AMENDMENTS REQUESTED BY THE RUBBER MANUFACTURERS ASSOCIATION

1. In Table I-B, the following new tire size designation and corresponding values are added:

TABLE I-B

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70 SERIES" BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
A70-15	720	770	810	860	900	940	980	1,020	1,060	1,090	1,130	1,160	1,200	4½	30.09	6.60

2. In Table I-M, the following new tire size designations and corresponding values are added:

TABLE I-M

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "78 SERIES" RADIAL PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
CR78-15	840	890	950	1,000	1,050	1,100	1,140	1,190	1,220	1,270	1,300	1,350	1,400	5	32.24	6.85

3. In Table I-R, the following new tire size designations and corresponding values are added:

TABLE I-R

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60 SERIES" RADIAL PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
LR60-14	1,340	1,430	1,520	1,600	1,680	1,750	1,830	1,900	1,970	2,040	2,100	2,170	2,230	8	37.84	11.10

4. In Table I-V, the following new tire size designations and corresponding values are added:

TABLE I-V

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "50 SERIES" BIAS PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
F50-14	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	7	34.10	10.20
E50-15	950	1,010	1,070	1,130	1,190	1,240	1,300	1,350	1,400	1,440	1,490	1,540	1,580	6½	33.74	9.50

5. In Table I-W, the following new tire size designations and corresponding values are added:

TABLE I-W

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "50 SERIES" RADIAL PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
BR50-13	780	840	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300	6½	30.84	9.15
GR50-14	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	8	35.29	10.05

AMENDMENTS REQUESTED BY THE EUROPEAN TYRE AND RIM TECHNICAL ORGANISATION

1. In Table I-H, the following new tire size designation and corresponding values are added:

TABLE I-H

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR TYPE "R" RADIAL PLY TIRES

Tire size designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
205R16	1,100	1,170	1,240	1,300	1,370	1,430	1,490	1,550	1,610	1,660	1,720	1,770	1,820	6	30.52	8.10

B. The following changes are made to Appendix A of § 571.110, Standard No. 110; Tire Selection and Rims.

AMENDMENTS REQUESTED BY THE RUBBER MANUFACTURERS ASSOCIATION

1. In Table I-B, the 4½–JJ test rim size is added for the A70–15 tire size designation.

2. In Table I-M, the 4–JJ alternative rim size is added for the BR78–13 tire size designation. The 5–JJ test rim size is added for the CR78–15 tire size designation. The 5½–K alternative rim size is added for the HR78–15 tire size designation.

3. In Table I-R, the 8–JJ test rim size is added for the LR60–14 tire size designation.

4. In Table I-V, the 6–JJ and 7–JJ alternative rim sizes are added for the B50–13 tire size designation. The 7–JJ test rim size is added for the F50–14 tire size designation. The 6½–JJ test rim size is added for the E50–15 tire size designation. The 7–JJ alternative rim size is added for the G50–14 tire size designation. The 8–JJ and 9–JJ alternative rim sizes are added for the G50–15 tire size designation. The 8–JJ alternative rim size is added for the M50–14 tire size designation. The 10–JJ alternative rim size is added for the N50–14 tire size designation. The 8–JJ and 10–JJ alternative rim sizes are added for the N50–15 tire size designation.

5. In Table I-W, the 6½–JJ test rim size is added for the BR50–13 tire size designation. The 8–JJ test rim size is added for the GR50–14 tire size designation.

AMENDMENTS REQUESTED BY THE EUROPEAN TYRE AND RIM TECHNICAL ORGANISATION

1. In Table I-H, the 6–JJ test rim size and the 5½–JJ and 6½–JJ alternative rim sizes are added for the 205R16 tire size designation.

AMENDMENTS REQUESTED BY NISSAN MOTOR COMPANY LTD.

1. In Table I-N, the 5–JJ alternative rim size is added for the 195/70R14 tire size designation.

FMVSS No. 110—APPENDIX A

TABLE I

(Following is a tabulation of changes made by this amendment)

TABLE I-B

Tire Size	*Rims*
A70–15	*4½–JJ.*

TABLE I-H

205R16	5½–JJ, *6–JJ*, 6½–JJ.

TABLE I-M

BR78–13	*4–JJ.*
CR78–15	*5–JJ.*
HR78–15	5½–K.

TABLE I-R

LR60–14	*8–JJ.*

TABLE I-N

195/70R14	5–JJ.

TABLE I-V

B50–13	6–JJ, 7–JJ.
F50–14	7–JJ.
G50–14	7–JJ.
M50–14	8–JJ.
N50–14	10–JJ.
E50–15	*6½–JJ.*
G50–15	8–JJ, 9–JJ.
N50–15	8–JJ, 10–JJ.

TABLE I-W

BR50–13	*6½–JJ.*
GR50–14	*8–JJ.*

Italic designations denote test rims. Where JJ rims are specified in the above tables, J and JK rim contours are permissible. Table designations refer to tables listed in Appendix A of Standard No. 109 (§ 571.109).

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407, 1421, and 1422; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on October 3, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.73-21631 Filed 10-12-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Arrowwood National Wildlife Refuge, North Dakota

The following special regulations are issued and are effective on October 15, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Public hunting of red fox on the Arrowwood National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 14,814 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations covering the hunting of red fox subject to the following conditions.

(1) Hunting is permitted from 12 Noon to sunset on November 9, 1973, and from sunrise to sunset November 10, 1973, through March 31, 1974.

(2) All hunters must exhibit their hunting license, game, and vehicle contents to Federal and State Officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through March 31, 1974.

JIM MATTHEWS,
Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, North Dakota.

OCTOBER 2, 1973.

[FR Doc.73-21850 Filed 10-12-73;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 73-296]

PART 153—ANTIDUMPING

Steel Wire Rope From Japan

OCTOBER 11, 1973.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that steel wire rope from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of June 7, 1973 (38 FR 14972).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States Tariff Commission responsibility for determination of injury or likelihood of injury. The United States Tariff Commission has determined, and on September 7, 1973, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan sold at less than fair value. (Published in the FEDERAL REGISTER of September 14, 1973 (39 FR 25724).) On September 27, 1973, the Tariff Commission notified the Secretary of the Treasury that it did not intend to include in its affirmative determination brass electroplated steel truck tire cord of cable construction specially packaged for protection against moisture and atmosphere. (Published in the FEDERAL REGISTER of October 4, 1973 (38 FR 27560).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to steel wire rope from Japan except brass electroplated steel truck tire cord of cable construction specially packaged for protection against moisture and atmosphere, as to which the Tariff Commission has not found injury or likelihood of injury.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

§ 153.43 List of current findings.

* * * * *

Merchandise	Country	T.D.
Steel wire rope, except brass electroplated steel truck tire cord of cable construction.	Japan	73-296

* * * * *

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-22036 Filed 10-12-73;9:51 am]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 18]

MARINE MAMMALS

Extension of Comment Period

There was published in the FEDERAL REGISTER of August 16, 1973 (38 FR 22143), a notice of proposed rulemaking to amend 50 CFR Part 18, Marine Mammals. That notice provided a comment period through September 24, 1973. By publication in the FEDERAL REGISTER of August 28, 1973 (38 FR 22967), the comment period was extended through October 1, 1973.

In order to provide the interested public additional time in which to submit comments, the comment period is extended through November 1, 1973.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 10, 1973.

[FR Doc.73-21862 Filed 10-12-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-WE-14]

ALTERATION OF VOR FEDERAL AIRWAY FLOOR

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal Airway No. 257 between Grand Canyon, Ariz., and Bryce Canyon, Utah, by extending the 1,200 foot AGL floor of that airway segment from 7 miles north of Grand Canyon to 38 miles north of Grand Canyon.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 1500 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before November 14, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The northbound departure procedure for Grand Canyon Airport requires a minimum crossing altitude of 8,500' MSL. Since the existing airway floor changes 7 miles north of the airport from 1,200' AGL to 12,500' MSL, northbound departing aircraft may sometimes operate outside controlled airspace for a brief period between 7 miles north of Grand Canyon and the point where 12,500' MSL is attained. In order to provide sufficient controlled airspace so that northbound departures can easily remain within controlled airspace from departure all the way to assigned cruising altitude, it is proposed herein to extend the 1,200' AGL floor on V-257 from 7 miles north of Grand Canyon to 38 miles north of Grand Canyon.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 4, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-21858 Filed 10-12-73;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 73-SW-64]

ALTERATION OF JET ROUTE SEGMENTS

Notice of Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign the segments of Jet Route No. 25 and Jet Route No. 29 between Brownsville, Tex., and Corpus Christi, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received by November 14, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the FAA, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also would be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to realign J-25 and J-29 between Brownsville, Tex., and Corpus Christi, Tex., via the intersection of the Brownsville 359° T (350° M) and the Corpus Christi 178° T (169° M) radials. This alignment would simplify air traffic control procedures between Brownsville and Corpus Christi by using the same VOR radials in the jet route structure as are proposed in the underlying airway structure in Airspace Docket No. 73-SW-53.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 4, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffice Rules Division.

[FR Doc.73-21859 Filed 10-12-73;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 152]

EXECUTIVE AND VARIABLE COMPENSATION

Notice of Proposed Rulemaking

Correction

In FR Doc. 73-18704 appearing at page 23628 in the issue of Friday, August 31, 1973, § 152.130(c)(10) which reads "'Affiliated group of entities' means a parent and those entities diparent" should read "'Affiliated group of entities' means a parent and those entities directly or indirectly controlled by the parent."

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

WATER POLLUTION CONTROL

Reimbursement Grants; Proposed Priority for Payment of Funds Appropriated by Public Law 92-399

Notice is hereby given that the Environmental Protection Agency proposes to amend reimbursement grant regula-

tions (40 CFR Part 35, Subpart D, 38 FR 26882, September 26, 1973) to more fully implement the requirements of section 206 of the Federal Water Pollution Control Act Amendments (P.L. 92-500).

Interested parties are encouraged to submit written comments, views or data concerning the existing regulations and the proposed amendments to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received within 30 days of the date of publication will be considered prior to the promulgation as final of the proposed amendments.

Particular attention is called to 40 CFR 35.865, which requires submission of applications for reimbursement grants prior to October 18, 1973. At time of publication, this requirement, which derives from section 206(c) of the Federal Water Pollution Control Act Amendments of 1972, remains in effect. Those applicants who have submitted an application for a different amount than the amount to which they would be entitled under the amendments proposed herein are encouraged to submit an amended application.

Dated October 11, 1973.

RUSSELL E. TRAIN,
Administrator.

Pursuant to section 206 of the Federal Water Pollution Control Act Amendments of 1972, Part 35 would be amended by revising § 35.875 to read as follows:

§ 35.875 Priority for funds appropriated by Public Law 92-399.

(a) Initial allocations from funds available under Public Law 92-399 (August 22, 1972) will be made pro rata among those projects which meet the requirements of § 35.855(a).

(b) Unless otherwise provided by law, any amounts remaining after the allocations described in paragraph (a) of this section will be allocated pro rata among those projects which meet the requirements of § 35.855(b).

§ 35.880 [Amended]

Delete the last sentence of paragraph (a) of § 35.880.

[FR Doc.73-21992 Filed 10-12-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19842; FCC 73-1035]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Certain Cities in Missouri

In the matter of amendment of § 73.202, *Table of assignments, FM broadcast stations.* (Cape Girardeau, Dexter, Portageville, Caruthersville, and Malden, Mo.). Docket No. 19842, RM-2005, RM-2117.

1. The Commission has before it petitions for rule making filed by Communications Systems, Inc. (CCI) and by Tri-County Broadcasting Co. (T-CB). The CCI petition has been opposed by New Madrid County Broadcasting Company.

2. CCI operates a station (KFMP) on one of the two FM channels assigned to Cape Girardeau, Mo. Because its site was on the east side of the Mississippi River in Zone I, KFMP was considered to be a Class B station. As such, its facilities were limited to 50 kW at 500 feet AAT. If CCI operated from a site on the Missouri side of the river in Zone II, KFMP would be considered a Class C station, able to operate with 100 kW and a height of 2,000 feet. This is precisely what CCI has in mind, and under ordinary circumstances, no rule making would be involved. Waiver of the short-spacing was granted and the station now operates from a site in Zone II with limited facilities. This authority was granted to permit operation during the pendency of the rule making proceeding. However, in reliance on CCI's status as a Class B station, other assignments have been made. Thus, CCI's proposed solution is to change the channel of one operating station, to substitute a channel for another one now vacant and to delete a third channel. The operating station which would have to change channel supports the change as representing a more efficient arrangement of the assignments involved.[1] The T-CB proposal, to assign a first channel at Malden, Missouri, does not conflict with the CCI proposal, but it does conflict with other possible approaches to resolving the issues raised by the CCI proposal. Because they thus coincide, we will join these petitions for action in this proceeding.

3. In the chart which is set forth in the Appendix, it can be seen that there are five choices before us. The first is denial of both petitions (i.e. preservation of the status quo); the second is denial of CCI's petition but grant of T-CB's (i.e., the status quo plus the addition of a Malden channel); the third is following CCI's approach (which would include a channel for Malden but removal of Portageville's vacant channel); and the fourth and fifth are two other possibilities derived from Commission staff study of the pattern of assignments. In one, Caruthersville would lose its vacant channel; in the other, Malden would be unable to obtain a channel. If the CCI proposal is to be favored, the inevitable result is to leave one of the three other affected communities without a channel. The fourth channel that is assigned to Dexter, is already occupied; none of the choices would do more than change this channel. Assuming that CCI has made a persuasive case of the need to accommodate its change to a Class C operation, we would then have to decide which community had the lowest priority. Conversely, if its case is less than persuasive, the other communities would all be able to have channels.

4. Although we believe it appropriate to seek comments on the various possibilities for resolving the issues which have been raised, this should not be taken as an expression of any conclusion in this regard. The record as it now stands is incomplete and this notice is intended to provide an opportunity to get the facts to enable us to weight the comparative merits of the approaches. In the following discussion, we are simply adverting to certain of the distinctions to be drawn and the consequences to be anticipated from the various courses of action open to us and are not stating that these are necessarily the points upon which our decision will rest. On behalf of its proposal, CCI points to the significant extension of coverage that Class C facilities would make possible.[2] Since this gain could not be achieved without some cost, we need to know how important this additional coverage would be. Would a first or second service be provided by CCI's improved facilities? Or would it merely supplement ample existing services? Are there other reasons sufficent to outweigh the loss of an otherwise possible assignment in one of the other communities?

5. As the Appendix shows, the three communities that might be without a local channel can be differentiated in several ways. The populations differ notably, ranging from Portageville (the smallest) at 3,117 persons to Caruthersville (the largest) at 7,350. Though Portageville is the smallest, an applicant has already stepped forward to put the channel to use. Malden, the middle-sized community, has a petitioner who presumably could be expected to file at some time soon if its petition were granted. Caruthersville's channel was put in several years ago pursuant to the request of the opponent of CCI's petition, but it has yet to file an application. If timing were the crucial factor, Malden would be in the weakest position; if size, then Portageville would be if sleeping on an opportunity counted most, Caruthersville would be. The point of this discussion is merely to show that a plausible basis could be found for favoring (or disfavoring) any of the communities. The data now before us is totally inadequate to permit the making of any final judg-

[1] It is not clear from the agreement whether the station is to get payment in excess of its expenses in making the change. If so, the amount is clearly unacceptable and in conflict with our decisions in this regard. However, it may be that the items in question are just property to be substituted for a cash payment for an expense in making the change or are otherwise to be donated in a manner unconnected with reimbursement. The parties are requested to clarify this point.

[2] Since CCI makes much of the advantages of a Class C operation, we should note that our willingness to consider the matter is in part premised on use of full-fledged Class C facilities. Tentatively, we would require a 100 kW operation at a substantial height above average terrain. In fact, CCI should indicate whether it could utilize the tower of Cape Girardeau Television Station KTVS-TV and in any event state its willingness to proceed on the understanding here expressed. Its engineering showing should, of course, be based on such facilities.

ment. At present we only know the population of the towns, that of their counties, their increase or decrease between censuses and the AM stations operating in each. More is clearly needed.

6. Accordingly, each of the parties wishing to comment [3] should address the questions before us so that we will have a basis for determining which course to follow. One choice is between Cape Girardeau and the others, but if Cape Girardeau prevails there is the subchoice to be made between affected communities. Malden's need for the assignment also has to be addressed, since even if CCI's petition were denied, it would still be possible to make the requested assignment at Malden.

7. Cutoff-procedure. As in other recent FM rulemaking proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rulemaking which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that they will not be considered in connection with the decision herein.

8. In view of the foregoing and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934 as amended, it is proposed to amend § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments, by one of the alternatives set out in the attached Appendix.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 16, 1973, and reply comments on or before November 26, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

10. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, N.W., Washington, D.C.

Adopted October 3, 1973.

Released October 10, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[3] The existing station in Dexter would be left on its present channel or be changed as it has already agreed to do. It is under no obligation to file to protect its rights, but it is welcome to file should it wish to do so.

[4] Commissioner Robert E. Lee absent.

APPENDIX

City	County	Population		AM facilities	Alternatives				
		City	County		No. 1	No. 2	No. 3	No. 4	No. 5
					[Present FM assignments]				
Cape Girardeau	Cape Girardeau	31,282	49,350	3 (2 daytime)	*246C, 276B*	246C, 276B	246C, 276C	246C, 276C	246C, 276C
Caruthersville	Pemiscot	7,350	26,373	1 (daytime)	276A	276A	283A		283A
Dexter	Stoddard	6,024	25,771	do	*272A* [1]	*272A*	292A	292A	292A
Portageville	New Madrid	3,117	23,420	do	[292A] [2]	[292A]		283A	221A
Malden	Dunklin	5,374	33,742	do		224A	224A	224A	

[1] Italics indicates channel is presently in use.
[2] Brackets indicate that an application is pending for use of the channel.

EFFECTS OF THE VARIOUS ALTERNATIVES

No. 1—Denial of both petitions, retention of the status quo.
No. 2—Denial of CCI petition, grant of T-CB petition.
No. 3—Grant of CCI and T-CB petitions, Portageville loses its channel.
No. 4—Grant of CCI and T-CB petitions, Caruthersville loses its channel.
No. 5—Grant of CCI petition, denial of TC-B petition.

[FR Doc.73-21898 Filed 10-12-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19837; FCC 73-1029]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Marion, Ohio

In the matter of amendment of § 73.202 (b), table of assignments, FM broadcast stations (Marion, Ohio). Docket No. 19837, RM-2099.

1. The Commission has before it a petition for rulemaking filed by Scantland Broadcasting Company (petitioner) on November 24, 1972 (supplement filed January 22, 1973), proposing the assignment of Channel 232A to Marion, Ohio.

2. Marion is a city of 38,646 population,[1] and the seat of Marion County, population 64,724. It is located 40 miles north of Columbus, Ohio. There are two broadcast stations in Marion: WMRM, a Class IV AM station and WMRM-FM, a Class B FM station operating on Channel 295. Channel 232A could be assigned to Marion in conformance with the Commission's minimum mileage separation rule if its transmitter site is located at least 7 miles west of the community.

3. In support of its request petitioner states that Marion and Marion County have shown continued and steady growth over the years: 1970 populations represent an increase of 7.5 percent for Marion County and 4.2 percent for the city of Marion over the 1960 census figures. It adds that Marion is a large industrial center producing a wide variety of manufactured goods, and employing 10,546 persons in 1969 (over one-third of Marion's work force). It points out that agriculture is the second leading source of income in Marion County, the total cash receipts from all forms of farming having reached $16.2 million in 1970.

4. The preclusion study shows that the proposed assignment would foreclose future assignment only on Channel 232A in a very limited area west of Marion. Although there are several communities located in or near this preclusion area, the largest is La Rue Village with a population of 867 persons. It does not appear large enough to warrant an assignment.

5. Petitioner contends that the two stations now in Marion are under common ownership and derive their news from the same sources, and devote most of their time to a middle-of-the-road format. It states that a second FM station would provide another source of local news coverage, and provide a different type of programming. Petitioner adds that it could experiment with different formats in order to determine what new things the people of Marion want and are not now getting. It states that if Channel 232A were assigned to Marion, Ohio, it would apply for the assignment and promptly build a new FM facility. We note that an assignment would intermix a Class A with a Class B channel at Marion. However, it appears that petitioner was unable to find a Class B channel available for the community and is willing to operate on a Class A channel in competition with WMRM-FM which

[1] All population figures are from the 1970 U.S. Census.

operates on Class B Channel 295. Although we normally are hesitant to intermix channels, we have done so where the facts warrant. Since Marion has a population the size of which could warrant the assignment of a second FM channel, we can explore the question of intermixture in this proceeding. In view of the foregoing information, we believe consideration of the above proposal is warranted.

6. In view of the foregoing, and pursuant to authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments (47 CFR 73.202(b)) to read as follows:

City	Channel No.	
	Present	Proposed
Marion, Ohio	295	232A, 295

7. Showings required. Comments are invited on the proposal discussed above. Proponent will be expected to answer whatever questions are raised in the Notice and other questions that may be presented in initial comments. The proponent of the proposed assignment is expected to file comments even if he only resubmits or incorporates by reference his former pleading. He should also restate his present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

8. Cut-off procedures. The following procedures will govern the consideration of filing in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rulemaking which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 16, 1973, and reply comments on or before November 26, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

10. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other document shall be furnished the Commission.

11. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: October 3, 1973.

Released: October 10, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-21699 Filed 10-12-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM–73]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON CODE OF CONDUCT FOR LINER CONFERENCES

Notice of Meeting

A meeting of the Subcommittee on the Code of Conduct for Liner Conferences will be held at 10 a.m., on Tuesday, October 23, 1973, in Room 6320, Department of State, to discuss United States positions on the Draft Code of Conduct for Liner Conferences in preparation for the UN Conference on Plenipotentiaries on the Code of Conduct for Liner Conferences which is to be held November 12–December 14, 1973, in Geneva.

The meeting will be closed to the public, under a determination to do so, made under the provisions of section 10(d) of Public Law 92–463, i.e., 5 U.S.C. 522 (b)(1).

For information regarding the meeting, contact Mr. Richard K. Bank, Executive Secretary, Shipping Coordinating Committee, Department of State, Washington, D.C. 20520, telephone (area code 202) 632–0704.

Dated October 2, 1973.

RICHARD K. BANK,
Executive Secretary,
Shipping Coordinating Committee.

[FR Doc.73–21728 Filed 10–12–73;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Notice of Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, a meeting of the Commissioner's Advisory Group will be held on October 17 and 18, 1973, beginning at 10 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224. The agenda will include various topics concerning the procedures and operations of the Internal Revenue Service.

The meeting will be open to the public. It is to be held in a room accommodating 50 people. In addition to discussion of agenda topics by Committee Members, there will be time for statements by non-members. Persons wishing to make oral statements should so advise the Executive Secretary prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Committee by sending it to the Executive Secretary, Room 3009, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.73–22055 Filed 10–12–73;9:42 am]

Office of the Secretary

HAND-OPERATED, PLASTIC PISTOL-GRIP TYPE LIQUID SPRAYERS FROM JAPAN

Antidumping; Withholding of Appraisement Notice

OCTOBER 10, 1973.

Information was received on January 23, 1973, that hand-operated, plastic pistol-grip type liquid sprayers from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an Antidumping Proceeding Notice which was published in the FEDERAL REGISTER of March 9, 1973, on page 6414. The Antidumping Proceeding Notice indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of hand-operated, plastic pistol-grip type liquid sprayers from Japan is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. The information currently before the United States Customs Service tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated on the basis of the f.o.b. Tokyo, Japan, unit price to the United States, with a deduction for foreign freight charges.

Exporter's sales price will probably be calculated by deducting from the resale price to unrelated purchasers in the United States, U.S. duties, brokerage fees, freight charges, insurance, commissions, and selling expenses, where appropriate.

Home market price will probably be calculated on the basis of a weighted-average delivered price, with deductions for inland freight and credit costs. Adjustments will probably be made for differences in costs of packing and in the merchandise compared.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price or exporter's sales price, as appropriate, will be lower than the adjusted home market price.

Customs officers are being instructed to withhold appraisement of hand-operated, plastic pistol-grip type liquid sprayers, from Japan in accordance with § 153.48, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Assistant Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Assistant Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than October 25, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than November 14, 1973.

This notice, which is published pursuant to § 153.34(b), Customs regulations (19 CFR 153.34(b)), shall become effective on October 15, 1973. It shall cease to be effective April 15, 1974, unless previously revoked.

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73–21996 Filed 10–12–73;8:45 am]

HAND-OPERATED, PLASTIC PISTOL-GRIP TYPE LIQUID SPRAYERS FROM THE REPUBLIC OF KOREA

Tentative Discontinuance of Antidumping Investigation

OCTOBER 10, 1973.

Information was received on January 23, 1973, that hand-operated, plastic pistol-grip type liquid sprayers from the Republic of Korea were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This informa-

tion was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 9, 1973, on page 6414.

I hereby announce a tentative discontinuance of the anti-dumping investigation on hand-operated, plastic pistol-grip type liquid sprayers from the Republic of Korea.

Statement of reasons on which this tentative discontinuance of antidumping investigation is based. The information developed during the investigation by the U.S. Customs Service tends to indicate that sprayers, once considered as possibly being from Korea, are actually assembled with Japanese components in a Korean free trade zone, never enter the commerce of the Republic of Korea, and are destined for the United States at the time they are exported from Japan. Furthermore, the proper country of origin marking for these sprayers has been determined to be Japan. Based upon these facts, the exports of the Japanese subsidiary operating in the Korean free trade zone are considered exports of Japan for purposes of this antidumping investigation. Since no other manufacturer produces these sprayers in Korea, there have been no exports of hand-operated, plastic pistol-grip type liquid sprayers from the Republic of Korea and it is considered appropriate to tentatively discontinue the investigation with respect to Korea. Those hand-operated, plastic pistol-grip type liquid sprayers which are considered products of Japan but assembled in Korea are being included within the scope of the concurrent investigation of this class or kind of merchandise from Japan.

Interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than October 25, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than November 14, 1973.

Unless persuasive evidence or argument to the contrary is presented pursuant to the preceding paragraphs, a final notice will be published discontinuing the investigation.

This notice of tentative discontinuance of antidumping investigation is published pursuant to § 153.15(b) of the Customs regulations (19 CFR 153.15(b)).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-21997 Filed 10-12-73;8:45 am]

PRIMARY LEAD METAL FROM CANADA

Antidumping; Determination of Sales At Less Than Fair Value

OCTOBER 9, 1973.

Information was received on February 16, 1973, that primary lead metal from Canada was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A Withholding of Appraisement Notice was published in the FEDERAL REGISTER of July 27, 1973.

I hereby determine that for the reasons stated below, primary lead metal from Canada is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based. The information beore the U.S. Customs Service reveals that the proper basis of comparison for fair value purposes is between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of a delivered, duty-paid price, with deductions for a discount, Canadian and U.S. freight, U.S. duty, and a sales commission.

Adjusted home market price was calculated on the basis of a weighted average of delivered prices in the home market with appropriate deductions for freight, sales commissions, selling expenses and discounts. Appropriate adjustments were made for differences in credit terms.

Using the above criteria, purchase price was found to be lower than the adjusted home market price of such or similar merchandise.

The United States Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-21998 Filed 10-12-73;8:45 am]

PHOTO ALBUMS FROM CANADA

Antidumping Proceeding

OCTOBER 11, 1973.

On September 10, 1973, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that photo albums from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Commissioner of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary.

[FR Doc.73-22057 Filed 10-12-73;9:51 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVAL WEAPONS CENTER ADVISORY BOARD

Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that the Naval Weapons Center Advisory Board will hold closed meetings on November 1 and 2, 1973, at the Naval Weapons Center, China Lake, California. The agenda consists of matters classified in the interest of national security.

Dated October 9, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General of the Navy.

[FR Doc.73-21953 Filed 10-12-73;8:45 am]

SECRETARY OF THE NAVY'S ADVISORY COMMITTEE ON NAVAL HISTORY

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History will hold an open meeting on November 1, 1973, in room 4E 630, the Pentagon, Washington, D.C.

The purpose of the meeting is to review the naval historical activities of the past eighteen months and to make comments and recommendations on these activities to the Secretary of the Navy.

Public attendance, depending on available space, may be limited to those persons who have given written notice at least 5 days prior to the meeting of their intention to attend.

Any person desiring information about this Advisory Committee may write to

the Director of Naval History, Building 220, Washington Navy Yard, Washington, D.C. 20374.

Dated October 9, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General of the Navy.

[FR Doc.73-21952 Filed 10-12-73;8:45 am]

CHIEF OF NAVAL PERSONNEL CIVILIAN ADVISORY BOARD

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that the Chief of Naval Personnel Civilian Advisory Board will hold an open meeting from 8:30 a.m. to 5 p.m. on October 18, 1973, in Room 2602, Navy Annex, Arlington, Virginia.

The agenda for this meeting includes introductory briefing on Navy organization, officer and enlisted systems, and personnel accounting.

Dated October 11, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc.73-22054 Filed 10-12-73;10:02 am]

PROFESSIONAL EDUCATION ADVISORY COMMITTEE

Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that the Professional Education Advisory Committee, U.S. Marine Corps, will hold open meetings on October 18-19, 1973, in room 120, Breckinridge Hall, Marine Corps Development and Education Command, Quantico, Virginia. Limited seating is available.

The agenda includes a review of current academic programs at schools within the Education Center; discussion of projected goals and objectives; and consideration of proposed organizational changes.

Any person desiring information about this Advisory Committee may write to the Director, Education Center, Marine Corps Development and Education Command, Quantico, Va. 22134.

Dated October 11, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc.73-22053 Filed 10-12-73;10:02 am]

Office of the Defense Advisor, United States Mission to NATO

DEFENSE INDUSTRY ADVISORY GROUP IN EUROPE (DIAGE)

Notice of Closed Meeting

The Defense Industry Advisory Group in Europe (DIAGE) will hold a closed meeting on October 18, 1973, in the United States Mission to the North Atlantic Treaty Organization, Brussels, Belgium.

The agenda topics will be the General Articles on Tariff and Trade, status of NATO projects, and discussion of activities of U.S. defense industry firms in Europe.

Any person desiring information about the advisory group may telephone Brussels, 41.44.00 Ext. 5722, or write to the Executive Secretary, Defense Industry Advisory Group, USNATO, Hq. NATO, 1110 Brussels, Belgium.

MAURICE W. ROCHE,
Director, Correspondence & Directives Division OASD (Comptroller).

OCTOBER 10, 1973.

[FR Doc.73-21886 Filed 10-12-73;8:45 am]

Office of the Secretary of Defense

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held on:

Monday, October 29, 1973
Tuesday, November 13, 1973
Wednesday, November 14, 1973
Friday, November 30, 1973

These meetings commencing at 9 a.m. will be to discuss classified matters.

MAURICE W. ROCHE,
Director, Directorate for Correspondence and Directives OASD (Comptroller).

OCTOBER 9, 1973.

[FR Doc.73-21879 Filed 10-12-73;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 73-17]

MBH CHEMICAL CORP.

Manufacture of Phenmetrazine; Notice of Hearing

On April 12, 1973, a notice of application for registration for the manufacture of phenmetrazine by MBH Chemical Corporation, 377 Crane Street, Orange, New Jersey, was published in the FEDERAL REGISTER (38 FR 9254). In response to this notice. Western Fher Laboratories, Division of Fher Corporation, Ltd., informed the Drug Enforcement Administration that they objected to the proposed application and requested that a hearing be held pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations.

Western Fher Laboratories objected to the granting of such registration stating that registration of MBH Chemical Corporation, as a bulk manufacturer of phenmetrazine in the absence of its holding or being the supplier of a person holding an approved New Drug Application for the drug would not be consistent with the public interest and registration of MBH Chemical Corporation as a bulk manufacturer of phenmetrazine, in the absence of a license from the holder of the patent covering phenmetrazine to manufacture the drug would not be consistent with the public's best interest.

Western Fher Laboratories, Division of Fher Corporation, Ltd., is an "interested party" because it is registered with the Administration as a manufacturer of bulk phenmetrazine. Because Western Fher Laboratories, Division of Fher Corporation, Ltd., has standing to request a hearing and because Western Fher Laboratories, Division of Fher Corporation, Ltd., has raised significant issues regarding the propriety of registering an additional manufacturer of phenmetrazine, the Administrator has determined to grant its request for a hearing.

The Administrator of the Drug Enforcement Administration, pursuant to the authority vested in the Attorney General by section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823) and delegated to the Administrator, Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, hereby orders that a public hearing on the application will be held, commencing at 10 a.m. on October 30, 1973, in Room 1211, 1405 Eye Street NW., Washington, D.C. 20537.

Any interested person desiring to participate in this hearing, but not yet made a party, shall file a notice of his intention to participate in the form prescribed in § 316.48 of Title 21 of the Code of Federal Regulations on or before October 30, 1973, with the Hearing Clerk, Drug Enforcement Administration, 1405 Eye Street NW., Washington D.C. 20537.

Dated: October 9, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.73-21906 Filed 10-12-73;8:45 am]

[Docket No. 73-18]

MBH CHEMICAL CORP.

Manufacture of Methylphenidate; Notice of Hearing

On April 12, 1973, a notice of application for registration for the manufacture of methylphenidate by MBH Chemical Corporation, 377 Crane Street, Orange, New Jersey, was published in the FEDERAL REGISTER (38 FR 9253). In response to this notice, the Pharmaceuticals Division, Ciba-Geigy Corporation, Summit, New Jersey, informed the Administration that they objected to the proposed application and requested a hearing to be held pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations.

The Pharmaceuticals Division, Ciba-Geigy Corporation objected to the granting of such registration stating that such

application was not in the public interest; Ciba-Geigy Corporation is the holder of a valid and existing United States patent for the manufacture of of methylphenidate and the MBH Chemical Corporation does not possess a license to manufacture methylphenidate; and MBH Chemical Corporation has failed to demonstrate its ability to handle psychotropic substances in a manner to prevent diversion.

Pharmaceuticals Division, Ciba-Geigy Corporation is an "interested party" because it is registered with the Administration as a manufacturer of bulk methylphenidate. Because the Pharmaceuticals Divisions, Ciba-Geigy Corporation has standing to request a hearing and because pharmaceuticals division, Ciba-Geigy Corporation has raised significant issues regarding propriety of registering an additional manufacturer of methylphenidate, the Administrator has determined to grant its request for a hearing.

The Administrator of the Drug Enforcement Administration, pursuant to the authority vested in the Attorney General by section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823) and delegated to the Administrator, Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, hereby orders that a public hearing on the application will be held, commencing at 10 a.m. on October 30, 1973, in Room 1211, 1405 Eye Street, NW., Washington, D.C. 20537.

Any interested person desiring to participate in this hearing, but not yet made a party, shall file a notice of his intention to participate in the form prescribed in § 1316.48 of Title 21 of the Code of Federal Regulations on or before October 30, 1973, with the Hearing Clerk, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

Dated October 9, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.73-21905 Filed 10-12-73;8:45 am]

[Docket No. 73-20]

PARMED PHARMACEUTICALS, INC.

Notice of Hearing

Notice is hereby given that on July 23, 1973, the Drug Enforcement Administration, Department of Justice, issued to Parmed Pharmaceuticals, Inc., Niagara Falls, N.Y., an Order to Show Cause as to why the Drug Enforcement Administration should not deny the application for registration under the Controlled Substances Act of 1970, of the Respondent company, executed on February 10, 1973, pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since said Order was received by Parmed Pharmaceuticals, Inc., and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on November 5, 1973, in room 1211 of the Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

Dated October 9, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.73-21903 Filed 10-12-73;8:45 am]

[Docket No. 73-16]

PROPOSED PLACEMENT OF PHENTERMINE IN SCHEDULE III

Notice of Hearing

On May 9, 1973, the Bureau of Narcotics and Dangerous Drugs (presently the Drug Enforcement Administration), Department of Justice, proposed that phentermine be placed into Schedule III of the Controlled Substances Act (38 FR 12127).

All interested persons were given until June 7, 1973, to file objections, comments or requests for a hearing. A notice was published in the FEDERAL REGISTER on May 31, 1973, extending the time for filing to June 11, 1973 (38 FR 14288).

A manufacturer of phentermine, Pennwalt Corporation, filed comments, objections, and a request for a hearing on May 21, 1973, regarding the placement of phentermine and fenfluramine into schedules of control under the Controlled Substances Act. On June 11, 1973, Pennwalt Corporation supplemented its filing regarding its objections on phentermine.

On July 6, 1973, a notice was published in the FEDERAL REGISTER (38 FR 18013) placing phentermine in Schedule IV pending the hearing on the proposal to place it in Schedule III. It was also stated that the time and place for the hearing would be announced shortly.

Notice is hereby given that a hearing in the matter of placing phentermine in Schedule III will commence on October 31, 1973, at 10 a.m. in Room 1211 of the Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

Any interested person desiring to participate in this hearing, but not yet made a party, shall file a notice of his intention to participate in the form prescribed in § 1316.48 of Title 21 of the Code of Federal Regulations on or before October 31, 1973, with the Hearing Clerk, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

Dated: October 9, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.73-21904 Filed 10-12-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 11172]

OREGON

Designation of the Deschutes River Recreation Lands; Correction

OCTOBER 4, 1973.

In FR Doc. 73-20203, appearing on page 26474 of the issue for Friday, September 21, 1973, the following change should be made in the land description:

Under T. 9 S., R. 13 E. should be T. 9 S., R. 13 E., sec. 13, N½, except for that portion lying within the Warm Springs Indian Reservation.

ARCHIE D. CRAFT,
State Director.

[FR Doc.73-21849 Filed 10-12-73;8:45 am]

National Park Service

HONOKOHAU STUDY ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Honokohau Study Advisory Commission will be held from 9 a.m. to 1 p.m. on October 20, 1973, at the Yano Memorial Center, Kailua-Kona, Hawaii.

The purpose of the Advisory Commission is to provide advice to the Secretary of the Interior on matters relating to the making of a study of the feasibility and desirability of establishing as a part of the National Park System an area comprising the site of the Honokohau National Historic Landmark.

The members of the Advisory Commission are as follows:

Colonel Arthur Chun, Kailua-Kona (Chairman).
Reverend Henry K. Bochard, Kailua-Kona.
Ms. Nani Mary Bowman, Honolulu.
Mr. Fred Cachola, Waianae.
Mr. Allin Cooper, Hilo.
Dr. Kenneth P. Emory, Honolulu.
Mr. Homer A. Hayes, Honolulu.
Mr. Kwai Wah Lee, Hilo.
Ms. Iolani Luahine, Kailua-Kona.
Mr. George Naope, Hilo.
Mrs. Abbie Napeahi, Hilo.
Mr. George Pinehaka, Honaunau Kona.
Mr. David K. Roy, Kailua-Kona.
Mr. Philipo Springer, Holualoa.
Mrs. Emily Kaai Thomas, Honolulu.

The purpose of the meeting is to review alternatives for the report and draft of report material.

The meeting will be open to the public and any person may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to file a written statement or who desire further information concerning the meeting may contact Robert L. Barrel, State Director, Hawaii, National Park Service, 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the State Director, Hawaii, and the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated October 10, 1973.

IRA WHITLOCK,
Acting Associate Director,
National Park Service.

[FR Doc.73-21926 Filed 10-12-73;8:45 am]

OVERTON BEACH RESORT, INC.

Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on November 14, 1973, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Overton Beach Resort, Inc., authorizing it to continue to provide concession facilities and services for the public at the Overton Beach Site within Lake Mead National Recreation Area, for a period of three (3) years from January 1, 1974, through December 31, 1976.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before November 14, 1973. Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated October 3, 1973.

JOSEPH C. RUMBURG, Jr.,
Deputy Associate Director,
National Park Service.

[FR Doc.73-21890 Filed 10-12-73;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-22]

HAWLEY COAL MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. Section 861 (c) (1970), Hawley Coal Mining Corporation has filed a petition to modify the application of 30 CFR 75.1405 and 75.1405-1 of the implementing regulations to its Blue Boy Mine No. 6 located at Bradshaw, McDowell County, West Virginia.

30 CFR 75.1405 reads as follows:

§ 75.1405 *Automatic couplers.* All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

Petitioner states that under normal conditions mine cars are delivered to the sections in 19 to 40 car units per section and the cars are uncoupled when they are set off at the section dumping point from the lead motor or excess cars. These cars are then pulled through the loading point with an electric hoist and steel rope cable attached to the lead cars.

As an alternative method Petitioner requests that it be allowed to use its presently existing facilities. Petitioner states that loader operators or brakeman at no time are required to go between cars to couple or uncouple cars while they are in motion or subject to be moved. Individual cars are not uncoupled while being loaded at the loading point. Petitioner states that only one coupling is made when these cars are picked up to be transported to the surface and at all times during the coupling process the brakeman is in contact with the motorman by trolley phone. After being transported to the surface the cars are placed upon the track at the dumping point by the motorman. Individual cars are dumped by the end dump method at the dumping point and they are placed on the dump by the drag chain method. The same employee that uncouples the car to be dumped also handles the switch that moves the cars through the dump and at no time does he go between the cars while cars are in motion or subject to be moved since he controls the movement of the cars by an electric switch and hoist.

Petitioner contends that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners at the affected mine by the mandatory standards.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before November 14, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

OCTOBER 2, 1973.

[FR Doc.73-21847 Filed 10-12-73;8:45 am]

[Docket No. M 74-24]

POCAHONTAS FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Pocahontas Fuel Company has filed a petition to modify the application of section 311(c) of the Act, also published as 30 CFR 75.1105, to its Lynco Mine located at Wyoming County, West Virginia.

Section 311(c) reads as follows:

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

Petitioner requests modification of that portion of the above section which requires that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return. Petitioner states that there are two mine sections serviced by the 4 North Haulway which are located about 2 miles from the Main Portal. The mine fan is located at the back end of the mine workings and all returns are located inby the working sections making it virtually impossible to direct the air current, which ventilates the rectifiers and transformers, into the return. Petitioner states that the life of the mine in this area is approximately 2 years.

As an alternative method petitioner proposes that it be allowed to install a fire protection system which will provide for the ventilation of these areas or structures enclosing electrical installations in such a manner which, in the event of a fire, will confine the smoke to the enclosed area and automatically de-energize, the affected electrical installation unit. Petitioner states that the system will consist of plastered cement block walls which will be used to enclose the area in which the structure is installed. The system will also have two steel doors, approximately 32 inches by 32 inches, which will be installed in such a manner as to permit an air current to pass through the structure and which will close automatically when the fuse link separates. The fuse link separates when a short circuit or overheating occurs. All electrical cables will be mortared in the wall of the enclosure and the inside of the enclosure will be well rock-dusted and kept free from an accumulation of combustible material.

Petitioner contends that the proposed system will at all times provide no less than the same degree of safety as that provided by the application of the mandatory standard. It is averred that the alternative plan will provide a structure which will be well ventilated without the loss of much needed air at the working face and the system will provide for automatic and complete enclosure of the structure or area to confine smoke in the event of a fire in the electrical installation. Petitioner states that in the event of a fire the system will confine the smoke in such a manner so as not to smoke out the intake travelways for the men who are inby the electrical installation.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before November 14, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

OCTOBER 2, 1973.

[FR Doc.73-21846 Filed 10-12-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

WATERSHED PLANNING

Notice of Authorization

This provides notice of authorization dated September 26, 1973, to the concerned state conservationists of the Soil Conservation Service to provide planning assistance to specified local organizations for the indicated watersheds. The state conservationist may now proceed with investigations and surveys as necessary to develop watershed work plans under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566).

Environmental statements will be prepared concurrently with the preparation of the watershed work plans. These statements will be made available to the general public, filed with the Council on Environmental Quality, and the notice of availability published in the FEDERAL REGISTER.

Persons interested in any of these projects may contact the local organizations or the concerned state conservationist as indicated below:

Massachusetts and Rhode Island: Ten Mile River Watershed; 41,302 acres; Norfolk and Bristol Counties, Massachusetts, and Providence County, Rhode Island.

Sponsors—Bristol Conservation District, Norfolk Conservation District, Northern Rhode Island Conservation District, and the Southeastern Regional Planning and Economic Development District.

State Conservationist—Mr. Benjamin Isgur, Soil Conservation Service, 27-29 Cottage Street, Amherst, Massachusetts 01002.

West Virginia: Hackers Creek Watershed; 36,820 acres; Harrison, Lewis, and Upshur Counties.

Sponsors—West Fork Soil Conservation District; Tygart's Valley Soil Conservation District; County Court of Upshur County; County Court of Lewis County, County Court of Harrison County, City of Clarksburg, and the Municipality of Jane Lew.

State Conservationist—Mr. James S. Bennett, Soil Conservation Service, 209 Prairie Avenue, P.O. 865, Morgantown, West Virginia 26505.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated September 26, 1973.

KENNETH E. GRANT,
Administrator,
Soil Conservation Service.

[FR Doc.73-21806 Filed 10-12-73;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MARINE MAMMAL PRODUCTS

Import Registration Procedure

Under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, et seq., 86 Stat. 1027 (1972)), a moratorium was imposed on the taking or importing of marine mammals and on the importing of marine mammal products. However, section 102(e) of the Act provides that the Act shall not apply with respect to any marine mammal taken before the effective date of the Act, December 21, 1972, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date.

In order to assist persons holding stocks or inventories of marine mammals or marine mammal products to prove their rights of exclusion from the Act, a voluntary registration program was provided for in § 216.11(c) of the Department of Commerce interim regulations promulgated under the Act (37 FR 23177, December 21, 1972). This program provided that until January 8, 1973, persons having marine mammals or marine mammal products, providing that such products were physically located within the jurisdiction of the United States at the time of registration, could file an inventory of such mammals or products with the Secretary of Commerce, and that such inventory would serve as a conclusive presumption that such mammals or mammals from which products were fashioned were taken prior to December 21, 1972, subject to the discretion of the Secretary to refuse to accept such list or part thereof for good cause.

It has come to the attention of the Director, National Marine Fisheries Service, that significant quantities of marine mammal skins from marine mammals taken prior to December 21, 1972, exist outside of the United States. Persons who wish to import these skins into the United States have sought advice from the Director, National Marine Fisheries Service, on how to accomplish such importation, citing that they cannot utilize the registration system provided under § 216.11(c) since no skins under that system could be registered after January 8, 1973, and the skins could not be registered in any case since they were not physically within the jurisdiction of the United States.

In order to assist importers of such skins to document their claims that any such skins were taken prior to December 21, 1972, and, therefore, are excepted from the application of the Act, the following procedure is adopted:

Prior to exportation from a foreign country, any person desiring to import into the United States any marine mammal product consisting of, or composed in whole or in part of marine mammals taken prior to December 21, 1972, shall provide an affidavit containing the following:

(1) The Affiant's name and address;

(2) Identification of the Affidavit;

(3) A description of the marine mammal products which the Affiant desires to import;

(4) A statement by the Affiant that to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;

(5) A statement by the Affiant in the following language: "The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of _____ under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972."

Two exhibits shall be attached to such affidavit, and they will contain the following:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to the effective date of the Act. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing;

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

In the event that the Director shall determine to reject any affidavit in whole or in part, he shall, as soon as practicable, notify the Applicant submitting such affidavit of his decision, indicating his reasons for such rejection.

Effective date. This policy is effective October 15, 1973.

Dated October 5, 1973.

ROBERT W. SCHONING,
Director, National
Marine Fisheries Service.

[FR Doc.73-21891 Filed 10-12-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OVER-THE-COUNTER VITAMIN, MINERAL AND HEMATINIC DRUG PRODUCTS

Safety and Efficacy Review; Request for Data and Information

The FDA is undertaking a review of all over-the-counter (OTC) drug products for human use currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice outlining procedures for this review was published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464).

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for all dosage forms of vitamins, minerals and hematinic drug products, the administration invites submission of data, published and unpublished, and other information pertinent to all active ingredients in such preparations.

FDA is aware that the following is not a complete list, but only representative of the kinds of active ingredients used in such products. FDA has conducted a literature search on each of them:

Vitamin A.
Vitamin D.
Vitamin E.
Vitamin C (Ascorbic Acid).
Folic Acid (Folacin).
Thiamine (Vitamin B_1).
Riboflavin (Vitamin B_2).
Niacin.
Vitamin B_6 (Pyridoxine).
Vitamin B_{12} (Cyano-Cobalomin
Biotin.
Calcium Salts.
Copper Salts.
Iodine.
Iron Salts.
Magnesium Salts.
Pantothenic Acid.
Phosphorous Salts.
Zinc Salts.

A wide variety of other ingredients may also be used in such products (e.g., paraminobenzoic acid, inositol, kelp, liver extract, rutin, and other bioflavonoids). Interested persons are invited to submit data on any such ingredients which they may wish to be considered.

The following products constitute "drugs" under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act and are thus subject to this notice: (1) Any product containing any vitamin, mineral, or other dietary factor, property, or ingredient for which any statement is made directly or indirectly on the label or in labeling or advertising that the product or any constituent is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man; (2) any product containing an added vitamin or mineral at a level in excess of the upper limit established in § 80.1(f)(1) (21 CFR 80.1(f)(1)) as promulgated in the FEDERAL REGISTER of August 2, 1973 (38 FR 20730) for the category of persons for which the product is represented, or if no specific category is stated, for the lowest upper limit so established; or (3) any product containing any quantity of a vitamin or mineral listed in § 125.1(c) (21 CFR 125.1(c)) as promulgated in the FEDERAL REGISTER of August 2, 1973 (38 FR 20708), except for infant formulas and food represented for use solely under medical supervision to meet nutritional requirements in specific medical conditions, for which the Food and Drug Administration has not yet established the dividing line between food and drug levels of use. Although this review does not cover the use of nutrients or other dietary factors or properties in general purpose foods or dietary supplements of vitamins and minerals, data with respect to such use considered relevant by any interested persons may be submitted and will be considered. All data, information, and views with respect to the use of nutrients for drug purposes presented at the hearing held by the Food and Drug Administration in 1968–1970 on revision of the regulations for food for special dietary uses and on establishing a definition and standard of identity for dietary supplements and vitamins and minerals will be considered in this review and thus this information need not again be submitted pursuant to this notice.

FDA's literature search covered the United States of America literature and other leading English language literature published since 1950 from the following sources:

Abstracts of World Medicine.
Biological Abstracts.
Index Medicus.
deHaen Drugs in Use.
Excerpta Medica (manual).
Excerpta Medica Drug Literature Service "Drug Doc".
FDA Medical Library Abstracts (including Clinical Experience Abstracts).
International Pharmaceutical Abstracts.
MEDLARS (NLM and SUNY).
NLM Bibliography of Medical Reviews.
Nutrition Abstracts and Reviews.
RINGDOC.

The bibliography of the literature search is available to interested persons.

Interested persons are also invited to submit data on any other active ingredients for vitamins, minerals, and hematinics.

To be considered, eight copies of the data and/or views must be submitted, preferably bound, indexed, and on standard size paper (approximately 8½ by 11 inches). All submissions must be in the format described below:

OTC drug review information. I. Label(s) and all labeling (preferably mounted and filed with the other data—facsimile labeling is acceptable in lieu of actual container labeling).

II. A statement setting forth the quantities of active ingredients of the drug.

III. Animal safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.

IV. Human safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of the finished product.
5. Pertinent medical and scientific literature.

V. Efficacy data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.

3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of combinations of the individual active components.
5. Pertinent medical and scientific literature.

C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of the finished drug product.
5. Pertinent medical and scientific literature.

VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.

VII. If the submission is by a manufacturer, a statement signed by the person responsible for such submission, that to the best of his knowledge it includes unfavorable information, as well as any favorable information, known to him pertinent to an evaluation of the safety, effectiveness, and labeling of such a product. Thus, if any type of scientific data is submitted, a balanced submission of favorable and unfavorable data must be submitted. The same would be true of any other pertinent data or information submitted, such as consumer surveys or marketing results.

In order to avoid duplication, interested persons should not in their submissions include published literature listed in the FDA literature search. An abstract of all such literature will be provided to the panel. Upon request, the panel will be provided with the complete article. Interested persons may, of course, refer to such literature in their submissions by citation.

Submissions or requests for copies of the bibliography of the FDA literature search should be forwarded to:

Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (BD-109), 5600 Fishers Lane, Rockville, Md. 20852.

Data and information must be submitted on or before December 14, 1973.

Dated October 5, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-21647 Filed 10-12-73;8:45 am]

Office of Education

SPECIAL PROJECT GRANTS

Notice of Closing Date for Receipt of Applications

Pursuant to the authority contained in section 505 of Title V-A of the Elementary and Secondary Education Act of 1965, as amended (79 Stat. 51, 20 U.S.C. 865), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of applications for special project grants to State educational agencies and public regional interstate commissions or agencies under section 505 of the Act. For Fiscal Year 1974, consideration will be given to such applications if received at the Application Control Center of the U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, no later than December 10, 1973.

Regulations governing such grants appear at 45 CFR Part 119. Particular attention is called to the provisions of § 119.22 thereof, which set forth the factors which the Commissioner will consider when reviewing applications for special project grants.

Dated: October 9, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-21693 Filed 10-12-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-270]

DUKE POWER CO.

Issuance of Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Facility Operating License No. DPR-47 to Duke Power Company (the licensee) authorizing operation of the Oconee Nuclear Station, Unit 2, at steady state reactor core power levels not in excess of 2568 megawatts thermal, in accordance with the provisions of the license and the Technical Specifications. The Oconee Nuclear Station, Unit 2, is a pressurized water reactor located at the licensee's site in eastern Oconee County, approximately eight miles northeast of Seneca, South Carolina.

On August 10, 1972, a Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing Pursuant to 10 CFR 50, Appendix D, Section C, was published

in the FEDERAL REGISTER (37 FR 16116). The notice provided that within thirty (30) days from the date of publication the applicant could request a hearing and any person whose interest might be affected by the proceeding could file a petition for leave to intervene. No request for a hearing or petition for leave to intervene was filed.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on November 6, 2007.

A copy of: (1) Facility Operating License No. DPR-47, complete with Technical Specifications (Appendices A and B); (2) the Final Safety Analysis Report, dated June 2, 1969, and amendments thereto; (3) the applicant's Environmental Report, dated July 1970, as supplemented; (4) the report of the Advisory Committee on Reactor Safeguards, dated August 14, 1973; (5) the Directorate of Licensing's Safety Evaluation, dated July 6, 1973, and Supplements 1 and 2; (6) the Draft Environmental Statement, dated December 21, 1971; (7) the Final Environmental Statement, dated March 27, 1972; and (8) the Oconee Addendum, dated June 14, 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 201 S. Spring Street, Walhalla, South Carolina 29691. A copy of the license and the Safety Evaluation may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 6th day of October 1973.

For the Atomic Energy Commission.

ROBERT L. FERGUSON,
Acting Chief, Pressurized Water Reactors Branch 4, Directorate of Licensing.

[FR Doc.73-21861 Filed 10-12-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25513; Order 73-10-33]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of October, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the 1973 Composite Traffic Conference held August 20-25, 1973, at Paris for April 1, 1974, effectiveness (except as noted).

The agreement would amend an existing resolution governing rates of exchange by imposing certain restrictions on acceptability of the East German mark for passenger and cargo sales outside that country, deleting "new" in reference to the Ghana "cedi," and deleting the rate of exchange with respect to the Venezuelan Bolivar to conform with Venezuelan law. Additionally, the agreement amends an existing attachment to the fares construction resolution to designate BAC-111 and DC-9 aircraft, used between specified U.S. points and configured for domestic service, as economy-class service for the construction of through international economy-class fares. Finally, widowers, as well as widows, of IATA or member carrier employees are named as beneficiaries of free or reduced rate/fare transportation.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreement as indicated, to be adverse to the public interest or in violation of the Act, provided that approval is subject to previously imposed conditions:

Agreement C.A.B.	IATA No.	Title	Application
23925:			
R-1	002	Standard Revalidation Resolution	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-2	014a	(Expedited) (October 1, 1973), Construction Rule for Passenger Fares (Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-3	021b	(Expedited) (November 1, 1973), Rates of Exchange (Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-4	200	Free and Reduced Fare or Rate Transportation (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.

Accordingly, it is ordered, That:

Agreement CAB 23925, R-1 through R-4, be and hereby is approved subject to previously imposed conditions where applicable.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-21894 Filed 10-12-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 10 a.m., Friday, October 19, 1973, at the Kenilworth Hotel, Second Terrace Room, Miami, Florida.

The agenda will consist of discussions leading to recommendations on specific Phase II and Phase III wage cases in the food area, and future wage policy.

Since the above stated meeting will consist of discussions of future food wage policy and Phase II and III cases for decision, pursuant to authority granted to me by Cost of Living Council Order 25, I have determined that the meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on October 11, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.73-21987 Filed 10-11-73;2:18 pm]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19744, 19745; FCC 73R-344]

BELO BROADCASTING CORP. AND WADECO, INC.

Memorandum Opinion and Order Enlarging Issues

In regard to applications of Belo Broadcasting Corporation (WFAA-TV), Dallas, Tex., Docket No. 19744, File No. BRCT-33, for renewal of broadcast license; and

WADECO, Inc., Dallas, Tex., Docket No. 19745, File No. BPCT-4453, for construction permit for new television broadcast station.

1. Now before the Review Board is a petition to enlarge issues, filed June 14, 1973, by Belo Broadcasting Corporation (Belo), requesting the addition of the following issues against WADECO, Inc. (WADECO):

(1) To determine whether WADECO, Inc. has reasonable assurance of being able to secure its proposed antenna site.

(2) To determine whether WADECO, Inc. has reasonable assurance of being able to secure its proposed studio facilities, and, if not, the effect on WADECO, Inc.'s financial qualifications and its ability to effectuate its proposal.

(3) To determine whether WADECO, Inc. can reasonably expect to secure a network affiliation, and, if not, the effect on WADECO, Inc.'s financial qualifications and its ability to effectuate its program proposals.

(4) To determine the efforts made by WADECO, Inc. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(5) To determine whether WADECO, Inc. misrepresented facts to the Commission in connection with its survey of community leaders.

(6) To determine whether, in light of the evidence adduced under the preceding issues, WADECO, Inc. is qualified to be a licensee of the Commission.[1]

SITE AND STUDIO AVAILABILITY ISSUES

2. Petitioner alleges that WADECO does not have reasonable assurance of the availability of its proposed antenna site, which is specified as the corner of the candelabra tower now occupied by the antenna of renewal applicant, WFAA–TV. In support thereof, Belo submits the affidavit of Aubrey S. Jenkins, Secretary of Hill Tower, Inc., owner of the proposed site, in which the affiant states that no representative of WADECO has communicated with any of its representatives concerning the use of the tower as a supporting structure for WADECO's proposed television antenna. Noting that the existing licensee, WFAA–TV, owns 50 percent of Hill Tower, Inc., Belo submits the affidavit of Mike Shapiro, officer and director of Belo, in which he avers that no representative of WADECO has communicated with WFAA with respect to future use of the tower, and asserts Belo's continuing right to the use of the antenna site. In support of its request for a studio availability issue, Belo submits an affidavit of Mike Shapiro stating that none of the corners of the intersection specified by WADECO as its studio location, including the present location of WFAA's offices and studios, has been shown to be available to WADECO, and that the applicant has not made any inquiries appropriate to ascertain the availability of any location at that intersection. Finally, Belo contends that since WADECO's financial ability depends upon the availability of studio and transmitter rental property at or less than WADECO's estimated rental, and since WADECO does not have assurance of obtaining the studio or transmitter locations it proposes, a serious question is raised as to the applicant's financial qualifications.

3. In opposition, WADECO avers that the Commission has held that in an incumbent/challenger context, it is not unreasonable to assume that the incumbent would be receptive to an offer to lease or purchase the station's facilities if its renewal was denied, citing United Television Co., Inc., 18 FCC 2d 363, 16 RR 2d 621 (1969); and Central Florida Enterprises, Inc., 22 FCC 2d 260, 18 RR 2d 883 (1970). Further, although the above-cited cases primarily concern antenna site availability, the applicant submits that the reasoning is equally applicable to studio site availability. Thus, WADECO explains, it has reasonably assumed that WFAA's facilities would be available if the mutually-exclusive application were to be denied. In reply, Belo argues that the cases relied upon by WADECO are inapposite; in both United and Central Florida Enterprises the Commission merely held that during the pre-designation period, reliance on availability of an existing station's facilities does not render an application fatally defective or substantially incomplete.

4. In proceedings involving new applicants, a properly substantiated allegation that an applicant has not approached the owner of property specified as a prospective site would ordinarily be adequate, standing alone, to warrant the addition of a site availability issue. See Lake Erie Broadcasting Company, 31 FCC 2d 45, 22 RR 2d 647 (1971). However, we believe that in cases involving an incumbent/challenger, a somewhat different standard is appropriate. As the Commission has held, absent some contrary indication or unusual circumstances, it is reasonable for an applicant to assume that a renewal applicant whose application has been denied would be amenable to future negotiations for transfer of its facilities.[2] Although Belo argues that WADECO has not approached it as the owner of the proposed antenna and studio facilities, Belo has, nevertheless, not alleged that it would not enter into negotiations looking toward use of those facilities should its application be denied. Accordingly, the availability issue will not be added. Finally, since the requested issues inquiring into costs for studio and transmitter are predicated on the challenge to the availability of the sites, and since petitioner has not specifically disputed the reasonableness of the estimates, issues inquiring into costs for studio and transmitter will not be added.

NETWORK AFFILIATION ISSUE

5. Belo alleges that, although WADECO proposes an ABC television network affiliation, it does not have reasonable assurance of securing such an affiliation. In support of this contention, the petitioner submits an affidavit of Richard L. Beesmyer, vice president in charge of affiliate relations for ABC, in which the affiant states that ABC has not had any discussions with WADECO regarding affiliation, and that it is ABC's policy to commence such negotiations only after a construction permit has been granted to an applicant. With respect to WADECO's prospects of obtaining an ABC affiliation if its application were to be granted, Beesmyer explains that since there are four VHF stations in the Dallas-Fort Worth area, it is possible that at least two, if not more, VHF stations would be candidates for an available ABC affiliation in the market. Belo further alleges that, if WADECO were to operate as an independent station, rather than as an ABC affiliate as proposed, this change in circumstances could well have a substantial effect on WADECO's ability to meet its financial obligations and to effect its proposed programming, citing Western Communications, Inc. (KORK), 39 FCC 2d 1077, 26 RR 2d 1456 (1973). Thus, petitioner argues that the standards set forth in Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965), should properly be applied to WADECO, rather than the requirement that it demonstrate only that it has sufficient funds to construct and to operate a proposed station for three months without revenues.[3]

6. In opposition, WADECO argues that the Review Board's addition of a network availability issue in Western runs contrary to prior Commission precedent; the appropriate standard was enunciated in Springfield Telecasting Co., FCC 64R–471, 3 RR 2d 727 (1964), in which the Board held that the proponent of the issue is required to present allegations which support the conclusion that no network affiliation is possible. This, WADECO asserts, Belo has failed to do. The Broadcast Bureau also opposes the addition of the issue. The Bureau argues that Belo's request is premised upon the "erroneous assumption" that the Commission's decision not to apply the Ultravision standards was in some way based on the assumption that WADECO would obtain an ABC affiliation; rather, as indicated in a footnote in the designation Order, FCC 73–542, released May 24, 1973, the Commission predicated the three-month test on its TV Broadcast Financial Data Report for 1972, which reveals that the Dallas-Fort Worth television broadcast stations generated revenues on an average in excess of the applicant's anticipated first-year operating costs. Thus, the Bureau concludes, the test was not the revenues of the existing ABC affiliate, but average revenues in the market. Given this, the Bureau notes that, although Belo has adequately demonstrated that WADECO is not assured of an ABC affiliation, it has not demonstrated that, absent such affiliation, WADECO would not generate revenues in excess of anticipated first-year operating costs. In reply, Belo asserts that the Commission did not find that WADECO would generate revenues equal to the average of other stations in the market if its first year of operation were as an independent non-network sta-

[1] The following related pleadings are also before the Board: (1) Broadcast Bureau's comments, filed July 2, 1973; (2) opposition, filed July 2, 1973, by WADECO; (3) erratum, filed July 3, 1973, by WADECO; and (4) reply, filed July 12, 1973, by Belo.

[2] Compare WHDH, Inc., 16 FCC 2d 1, 15 RR 2d 411 (1968), in which the Commission held that since a showing had been made that there were other uses to which the existing licensee's site could be put and that there were alternatives to the sale or lease of the property to a successful challenger, that the site availability issue had not been met.

[3] Inasmuch as the Commission did not discuss the network situation in the Dallas-Fort Worth market, there is no impediment to the Review Board's modification of the applicable financial qualifications standard, Belo contends, citing Atlantic Broadcasting Company (WUST), 5 FCC 2d 717, 8 RR 2d 931 (1961).

tion. In any event, Belo now questions whether WADECO's cost estimates, which were based upon a proposed network affiliation, can be regarded as acceptable cost estimates for an independent station operation.

7. The Review Board is of the view that a substantial question has been raised as to whether WADECO has reasonable assurance of obtaining an ABC affiliation. See Western Communications, Inc., supra. Moreover, in light of the network affiliation question, additional questions are raised as to the effect this would have on the applicant's financial qualifications and ability to effectuate its programming proposal. The specification of a network affiliation issue does alter the evaluation of WADECO's financial qualifications. Thus, to the extent that its financial proposal is dependent upon network programming and rates, it may not be accurate and complete in all significant respects in the event the applicant fails to secure an affiliation. Accordingly, an issue will be specified to inquire into the applicant's cost estimates which are contingent upon the ABC affiliation.[4] We, however, do not agree with Belo that the necessary correlate of a network affiliation issue in a proceeding where the applicant in question is seeking to supplant an existing licensee is the imposition of the Ultravision standard, which requires an applicant to demonstrate the availability of funds for construction and first-year operating expenses. Ordinarily, where an applicant seeks to replace a station which has an established record of advertising revenues, extending over a prolonged period of time, the availability of revenues is beyond dispute and the imposition of a three-month standard is appropriate. See Orange Nine, Inc., 7 FCC 2d 788, 9 RR 2d 1157 (1967). While it is true that the lack of a network affiliation could affect estimated revenues, the Commission, in part, in the designation Order in this case predicated its use of the three-month test on the average revenues of all the stations in the market, not just affiliated licensees. As a result, in the absence of a showing that drastic change in revenues could reasonably be anticipated if WADECO commenced operation in the market without a network affiliation, there is no basis for applying a different financial qualifications test.[5]

SUBURBAN ISSUE

8. In support of its request for a Suburban issue, Belo alleges that WADECO's application fails to show compliance with several of the requirements of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Initially, petitioner alleges that WADECO's demographic survey is deficient, inasmuch as it represents nothing more than extracts from certain Chamber of Commerce publications, which collectively fall short of informing the Commission and the applicant of precisely what significant groups comprise the community and which serve to make Dallas a distinctive community.[6] As a result, petitioner contends, there is no means of telling whether WADECO has in fact consulted with leaders of all significant groups in the community. The showing is further deficient in this regard, Belo continues, because WADECO has failed to disclose the basis upon which it chose the individuals whom it interviewed, citing St. Cross Broadcasting, Inc., 39 FCC 2d 1067, 26 RR 2d 1311 (1973). Belo also contends that WADECO's survey of the general public is deficient because the method of selecting interviewees was not designed to produce a cross-section of the general public.[7] Moreover, Belo asserts that it is impossible to determine from the WADECO showing what community problems were identified by members of the general public, as distinguished from problems identified by community leaders. Petitioner argues that, although an applicant is not required to include an evaluation of community problems in its application, the form in which WADECO presented its ascertainment efforts raises a serious question as to whether the applicant actually evaluated the results of its survey efforts. Finally, with respect to the applicant's proposed programing, Belo claims that WADECO failed to show both in its original application and subsequent amendments thereto precisely what program matter it proposes to carry to meet the major problems listed in its application.[8]

9. In opposition, WADECO urges that, taken as a whole, its ascertainment efforts and proposed programing show that it has made the required good faith effort to inform itself of area problems and demonstrated its intention to respond to community needs, citing Colorado West Broadcasting, Inc., 39 FCC 2d 691, 26 RR 2d 1083, 1087 (1973); and Greenfield Broadcasting Corporation, 30 FCC 2d 774, 22 RR 2d 497, vacated on other grounds, 32 FCC 2d 135 (1971). As for the challenge to its demographic survey, WADECO asserts that the Chamber of Commerce material, as well as the other "reliable studies and reports" which it used in designing its compositional study, satisfy the requirements of the Primer (Q. & A. 9). Accordingly, with respect to the sufficiency of its community leader survey, WADECO argues that petitioner's claim must be rejected because, as previously shown, WADECO's determination of the composition of the community fully complies with the Primer.[9] WADECO also asserts that its survey of the general public was conducted in strict accordance with the Primer, which specifically provides that a random selection of names from a telephone directory is sufficient. Additionally, WADECO claims that there is no requirement that the applicant list separately the needs ascertained from the general public from those identified by community leaders where, as here, the results of the two surveys were virtually identical, citing Lexington County Broadcasters, Inc., 40 FCC 2d 694, 27 RR 2d 416 (1973). Finally, WADECO claims that the best evidence of its evaluation process is its showing of typical and illustrative programs to be broadcast to meet community problems, which has not been and is not susceptable to an attack by petitioner.

10. The Broadcast Bureau supports addition of the requested issue on several of the grounds advanced by Belo. The Bureau agrees that WADECO's compositional study is deficient in significant areas, that the applicant's showing that the persons interviewed in the community leader survey are in fact leaders is inadequate, and that WADECO should be required to demonstrate that its programing is the result of evaluation of survey results, particularly those obtained since the last programing proposal amendment. However, the Bureau asserts that the random sample method employed by WADECO in its general public survey has been expressly approved by the Commission.

11. In reply, petitioner contends that WADECO's reliance upon Colorado West Broadcasting, Inc., supra; and Greenfield Broadcasting Corp., supra, is mis-

[4] Similarly, in the absence of an alternate programming proposal, which is not dependent upon a network affiliation, the issues will also inquire into WADECO's ability to effectuate its programming proposal.

[5] In this regard, it should be noted that the Dallas-Fort Worth market has three affiliates and one independent VHF operation; accordingly, the average station revenues include the revenues attributable to the independent operation with which WADECO conceivably might be in competition for the available ABC affiliation if WFAA's application were to be denied.

[6] In support of this allegation, petitioner submits four exhibits listing the names of public service agencies and civic, youth, cultural and professional organizations allegedly omitted from WADECO's compositional study.

[7] The method used by WADECO was to telephone one person from the listings on every third page of the telephone books of Dallas and Fort Worth; Belo asserts that this method did not produce a representative sample of the general public.

[8] In support of this contention, petitioner relies on the following statement in WADECO's original application: "The applicant expects to treat all of the above problems on one or more of its proposed programs listed in Exhibit No. 7." According to Belo, such a vague and general statement is clearly insufficient to comply with the Primer and raises a serious question regarding the responsiveness of WADECO's proposed programing to the community's ascertained needs, citing Middle Georgia Broadcasting Co., 30 FCC 2d 796, 22 RR 2d 524 (1971); Salem Broadcasting Co., Inc., 33 FCC 2d 672, — RR 2d — (1972); and William A. Gaston, 35 FCC 2d 624, 24 RR 2d 779 (1972).

[9] In any event, WADECO contends that the holding in Voice of Dixie, Inc., 41 FCC 2d 550, 27 RR 2d 980 (1973), pet. for rev. granted, FCC 73-967, released September 24, 1973, in which the Review Board held that a preliminary community analysis is not strictly required, if the totality of the evidence establishes an applicant's reasonable awareness of significant population groups, their respective community leaders and community problems, would be applicable to its showing.

placed in that those two cases involved communities with homogeneous populations where the need to prepare a complete community profile is not as important as in the case of a large cosmopolitan city like Dallas, Texas. There is no escaping the fact, Belo contends, that WADECO's showing substantially ignores significant groups and activities which make Dallas distinctive. With respect to WADECO's general public survey, Belo contends that since the applicant's random sample on its face does not appear to have produced a true cross-section of the community (allegedly the case here where 78 percent of the sample turned out to be females), the Primer suggest that the applicant should consult with additional members of other groups to obtain better insights into their particular problems. (See Q. & A. 13(b).) Finally, Belo argues that WADECO's reliance upon Voice of Dixie, Inc., supra, is misplaced; on the contrary, petitioner contends that it may not be assumed that because the applicant in that proceeding met its burden during an evidentiary hearing, that WADECO has similarly met its burden in its application showing.

12. In the Board's judgment, a Suburban issue is not warranted. An examination of WADECO's demographic showing in conjunction with its community leader survey indicates that WADECO is reasonably apprised of the minority, racial, or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive. (See Q. & A. 9 of the Primer.) WADECO has consulted with appropriately identified community leaders who are substantially representative of the groups that petitioner alleges WADECO omitted. In our view, the applicant has made a thorough and comprehensive showing in this regard. As noted by the Bureau and WADECO, the method employed by WADECO in selecting its general public interviewees has been expressly approved by the Commission.[10] Moreover, Belo has advanced no basis for concluding that further general public consultations would elicit further problems or viewpoints which would enhance WADECO's insight into the community.[11] Further, there is no requirement that an applicant list separately the needs ascertained from the general public, particularly when they are substantially identical to those obtained in the community leader survey. Lexington County Broadcasters, Inc., supra. Furthermore, there is no requirement that an applicant include an evaluation with his application (Primer, Q. & A. 24); rather, an applicant's evaluation can be determined by reviewing the broadcast matter which he proposes to meet the ascertained needs. In this connection, the Board is of the view that WADECO's programing proposals are sufficiently detailed to comply with the Primer (Q. & A. 29), which seeks "the description, and anticipated time segment, duration and frequency of broadcast of the program or program series, and the community problem or problems which are to be treated by it." Also, WADECO filed an amendment on December 20, 1971, which contained a list and description of four new programs designed to meet the community problems listed in amendments to its ascertainment showing.[12] In view of the foregoing, the Board finds that the applicant has made a reasonable and good faith effort to ascertain the needs and interests of the community and therefore a Suburban issue will not be specified by the Board.

MISREPRESENTATION ISSUE

13. Belo contends that eight of the persons named by WADECO as having been interviewed in its community leader survey were not, in fact, interviewed by any stockholder or other person purporting to act on behalf of the applicant.[13] Therefore, petitioner claims, a misrepresentation issue is warranted, citing California Stereo, Inc., 39 FCC 2d 401, 26 RR 2d 887 (1973). In opposition, WADECO submits an affidavit of James K. Wade, president of WADECO, Inc., in which he states that he interviewed seven of the community leaders Belo alleges were not contacted. In addition, WADECO submits the affidavit of Mr. Eubanks, secretary-treasurer of WADECO, who avers that he contacted one of the community leaders in question and the affidavit of Mrs. Baird, secretary to Mr. Wade, attesting to the fact that she listened in on the conversations of six of the leaders and took notes of the answers given.[14] The Broadcast Bureau states that, absent a satisfactory explanation by WADECO as to why the community leaders it interviewed should now deny having been interviewed, the requested misrepresentation issue should be added.

14. In the Board's opinion, Belo has raised serious questions concerning the truthfulness of WADECO's representations concerning its community leader survey. According to the affidavits submitted by the petitioner, eight community leaders allegedly surveyed by WADECO either claim never to have been interviewed by anyone purporting to represent WADECO, or repudiate the answers attributed to them. WADECO's submission of the affidavits of Mr. Wade and Mr. Eubanks claiming that they interviewed these eight persons is not adequate to answer their assertions of never having been interviewed.[15] In these circumstances, the addition of a misrepresentation issue is warranted. See California Stereo, Inc., supra.

15. *Accordingly, it is ordered,* That the motion to enlarge issues, filed June 14, 1973, by Belo Broadcasting Corporation, is granted to the extent indicated herein, and is denied in all other respects; and

16. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether WADECO, Inc., can reasonably expect to secure a network affiliation, and, if not, the effect on WADECO, Inc.'s, financial qualifications and its ability to effectuate its program proposals.

(b) To determine whether WADECO, Inc., misrepresented facts to the Commission in connection with its survey of community leaders.

(c) To determine whether, in light of the evidence adduced under the preceding issues, WADECO, Inc., is qualified to be a licensee of the Commission.

17. *It is further ordered,* That the burden of proceeding with the introduction of the evidence and the burden of proof under issue (a) added herein SHALL BE on WADECO, Inc.; and that the burden of proceeding with the introduction of evidence under issues (b) and (c) added herein SHALL BE on Belo Broadcasting Corporation, and the burden of proof thereunder SHALL BE on WADECO, Inc.

Adopted October 3, 1973.

Released October 4, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-21001 Filed 10-12-73;8:45 am]

[Dockets Nos. 19338, 19339]

ITAWAMBA COUNTY BROADCASTING CO., INC., AND TOMBIGBEE BROADCASTING CO.

Consolidation of Hearing on Applications

In re applications of Itawamba County Broadcasting Company, Inc., Fulton,

[10] See paragraph 40 of the Primer, wherein it states, "a random selection of names from a telephone directory is sufficient for our purposes."

[11] In this connection, we note that the fact that a higher percentage of those members of the general public who were consulted were female has no relevance to the validity of the survey absent some demonstration by Belo that the number of males contacted was insufficient to adequately obtain a representative sampling of opinions.

[12] Although WADECO did not specifically indicate what program matter it would carry to deal with the problems listed in the last three amendments to its ascertainment showing, we find that applicant's programing proposals taken as a whole are sufficient to meet the ascertained needs of the community.

[13] In support, Belo submits affidavits from each of the eight persons stating that they were never contacted by any person purporting to represent WADECO, Inc. to ascertain his views as to the needs, interests and problems of the area.

[14] In its reply, Belo submits the affidavits of six of the community leaders allegedly contacted by the applicant. One community leader recalls a conversation with Wade but claims Wade did not mention the fact that he was representing WADECO, Inc.; four community leaders aver they have no recollection of being contacted by anyone on behalf of WADECO; and one admits to the possibility of having had such a conversation but asserts his response to the specific questions would not have been as indicated.

[15] See Christian Voice of Central Ohio, 26 FCC 2d 76, 20 RR 2d 389 (1970); and WIOO, Inc., 40 FCC 2d 643, 27 RR 2d 204 (1973), where the Board added appropriate issues where conflicting affidavits were involved.

Miss., Docket No. 19838, File No. BPH-8028; Requests: 101.7 MHz, #269; 3 kW (H & V); 300 feet; and Aubrey Freeman, T/A Tombigbee Broadcasting Company, Fulton, Miss., Docket No. 19839, File No. BPH-8189; Requests: 101.7 MHz, #269; 3 kW (H & V); 300 feet; for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has before it the above applications which are mutually exclusive in that each applicant proposes to operate on the same channel allocated to the same community. Therefore, a comparative hearing must be held.

2. Itawamba County Broadcasting Company, Inc. (Itawamba), proposes to duplicate the programming of its commonly owned AM station, WFTO, during the daytime hours, while Tombigbee Broadcasting Company (Tombigbee) proposes independent programming. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programming inquiry. Jones T. Sudbury, 8 FCC 2d 360, 10 RR 2d 114 (1967).

3. Section 73.210 of the rules provides that the main studio of a commercial FM broadcast station must either be located in the proposed city of license or that good cause must be shown for locating the main studio outside the community. The Commission's Report and Order in Docket No. 19028, 27 F.C.C. 2d 851 (1971), however, explains that the Commission does not find it necessary to consider and approve FM main studio location at the AM main studio location in the case of commonly owned AM and FM stations licensed to serve the same principal community, since prior Commission approval is already required for an AM main studio location outside the community of license other than at the AM transmitter site and since an AM main studio location at the AM transmitter site is presumed to be consistent with the main studio rules and the public interest. Since Itawamba proposes to locate its main FM studio at its AM studio site, it is unnecessary to approve Itawamba's proposed studio site. Tombigbee, however, is not an AM licensee, and proposes to locate its main studio at its FM transmitter site, 5.25 miles west of Fulton, Mississippi. Nevertheless, Tombigbee has submitted a showing which indicates that its proposed studio site is located on a main highway and that bus service is available to it. Thus, Tombigbee's studio site appears to be readily accessible to the citizens of Fulton. Accordingly, Tombigbee's showing is found to be adequate, and no issue concerning its studio site will be specified.

4. The applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications for a construction permit should be granted.

6. *It is further ordered,* That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

7. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules and shall seasonably file the statement required by § 1.594(g).

Adopted October 3, 1973.

Released October 5, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-21900 Filed 10-12-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8420]

ALABAMA POWER CO. AND CENTRAL ALABAMA ELECTRIC COOPERATIVE, INC.

Filing of Initial Rate Schedule

OCTOBER 5, 1973.

Take notice that on September 28, 1973, Alabama Power Company (Company) tendered for filing, pursuant to § 35.12 of the Commission's regulations, the following documents:

(1) An Agreement dated August 24, 1973 with Central Alabama Electric Cooperative, Inc., pursuant to the Company's filed tariff rate schedule REA-1 filed with the Commission November 1, 1971, including as Exhibit A, a description of the new delivery point designated as Stewartville, located in Coosa County, Alabama.

(2) A map portraying the new delivery point under the contract.

The Company states that it is unable to estimate with relative accuracy the quantities of service to be rendered or the revenue to be derived under this contract within the next twelve months.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 2, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21870 Filed 10-12-73;8:45 am]

[Docket No. E-8408]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Rate Schedule

OCTOBER 4, 1973.

Take notice that on September 20, 1973, the Central Vermont Public Service Corporation of Rutland, Vermont (CVPS) tendered for filing a proposed rate schedule consisting of a purchase agreement with respect to the Burlington and Berlin gas turbines, between the City of Burlington, Green Mountain Power Corporation and Central Vermont Public Service Corporation (Sellers) and the Public Service Company of New Hampshire (Buyer), dated April 1, 1973. CVPS states service commenced May 1, 1973, and is to terminate October 31, 1973, and requests that the notice requirement be waived and the effective date be May 1, 1973. According to CVPS, uncertainties respecting the output of a number of large units in New England made it impossible to determine the amount of power Sellers could safely rely upon, at an early date. CVPS states that copies of the proposed rate schedule have been sent to all parties involved.

CVPS states that the service to be rendered under the rate schedule consists of the sale of 75 percent of the Burlington Unit's capacity and related energy, and 40.708 percent of the Berlin Unit's capacity and related energy. According to CVPS, the monthly rates for the above service are the product of four components: (1) a monthly capacity charge of $69,666.66; (2) maintenance charge equal to $0.001 times the number of kilowatt-hours sold to the Buyer; (3) an additional maintenance charge, if any, equal to the additional maintenance cost specified by the then current Nepex rate sheet applicable to Nepex energy transactions; and (4) a net energy charge equal to the Buyer's purchase percentage applicable to each unit, multiplied by the fuel expense of each such unit.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21867 Filed 10-12-73;8:45 am]

[Docket No. CP74-73]

COLORADO INTERSTATE GAS CO.

Notice of Application

OCTOBER 4, 1973.

Take notice that on September 17, 1973, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), filed in Docket No. CP74-73 a budget-type application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the Commission's regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the twelve-month period commencing December 27, 1973, and operation of certain natural gas sales and transportation facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states the purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in providing additional delivery points and to make unspecified miscellaneous rearrangements for its existing customers. Applicant states further that such authorization is sought hereunder to construct no more than ten new meter stations and main line and lateral taps for existing customers. The application states that the miscellaneous rearrangements to be constructed will include no more than three relocations for highway construction, development of private property, or other similar projects.

The total estimated cost of the proposed facilities is not to exceed $100,000, with the cost of any single new delivery point not to exceed $20,000, and the cost of any single miscellaneous rearrangement not to exceed $75,000. The total costs of new delivery points and rearrangements would not exceed $25,000 and $75,000, respectively.

Applicant requests waiver of § 157.7(c)(1)(i) of the Commission's regulations which prohibits the filing of a budget-type application when a customer is required to make a contribution to the Applicant for the cost of constructing facilities. Applicant states that contemplated facilities may be installed for the benefit and convenience of the Applicant or an existing customer. When the facility is solely for the benefit of the Customer, Applicant may require that customer to pay for or contribute to the cost of the facility. Applicant requests the Commission waive the proscription 157.7(c)(1)(i) to avoid the expense and delay of separate filings which would otherwise be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21871 Filed 10-12-73;8:45 am]

[Docket No. E-8422]

CONNECTICUT LIGHT & POWER CO. ET AL.

Proposed Rate Schedule

OCTOBER 4, 1973.

Take notice that on September 28, 1973, the Connecticut Light & Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (Collectively, Renderers of Service) tendered for filing a proposed rate schedule for their Purchase Agreement With Respect to Cos Cob, South Meadow and Silver Lake Gas Turbine Units with the Public Service Company of New Hampshire (Purchaser), dated May 1, 1973.

The Renderers of Service state that the purchase agreement provides for a sale to the Purchaser of specified percentages of capacity and energy from eleven gas turbine generating units during the period from November 1, 1973 to April 30, 1974, together with related transmission service. According to the Renderers of Service, all parties request that November 1, 1973 be made the effective date for the proposed rate schedule, and that all parties involved have received copies of the prepared filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. If a person has intervened previously in this docket no further petition to intervene is required. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21864 Filed 10-12-73;8:45 am]

[Docket No. E-8421]

CONNECTICUT LIGHT & POWER CO. ET AL.

Proposed Rate Schedule

OCTOBER 4, 1973.

Take notice that on September 28, 1973, the Connecticut Light & Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (Collectively, Renderers of Services) tendered for filing a proposed rate schedule for their Northfield Mountain Purchase Agreement with the Public Service Company of New Hampshire (Purchaser), dated May 1, 1973.

The Renderers of Service state that the purchase agreement provides for a sale to the Purchaser of a specified percentage of capacity and related pondage of the Northfield Mountain Pumped Storage Hydro Electric Project (License Project No. 2485) during the period beginning October 29, 1973 and terminating May 6, 1974, together with related transmission service. According to the Renderers of Service, all parties request that October 29, 1973 be made the effective date for the proposed rate schedule, and that all parties involved have received copies of the proposed filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. If a person has intervened previously in this docket no further petition to intervene is re-

quired. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21865 Filed 10-12-73;8:45 am]

[Docket No. CP74-85]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 5, 1973.

Take notice that on September 27, 1973, El Paso Natural Gas Company (Applicant) filed in Docket No. CP74-85 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1974, and operation of natural gas facilities to enable Applicant to take into its certificated main pipeline system supplies of natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the proposed facilities will not exceed $5,000,000 and the total cost for any single project will not exceed $1,000,000. Applicant states that these costs will be financed through the use of working funds which will be supplemented, as necessary, by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21872 Filed 10-12-73;8:45 am]

[Docket Nos. CP73-87, CP69-305, CP73-162, and CP73-277]

SEA ROBIN PIPELINE CO. ET AL.

Findings and Order After Statutory Hearing

OCTOBER 5, 1973.

In Docket No. CP73-87, Sea Robin Pipeline Company (Sea Robin) proposes to construct and operate 47.1 miles of 30-inch diameter pipeline looping existing pipelines of Sea Robin from Eugene Island Area Block 205 to Vermilion Area Block 149, offshore Louisiana, and to install an additional 14,000 compressor horsepower at Block 149 Compressor Station. The application in Docket No. CP73-87 was filed on September 29, 1972. On April 13, 1973, Sea Robin amended its application to install a 30-inch diameter line in lieu of the originally proposed 26-inch diameter line, due to more gas becoming available than it had anticipated. On February 20, 1973, Sea Robin requested temporary authority to install the 14,000 horsepower additional compression, alleging the need to promptly move through its pipeline additional available gas. On May 3, 1973, the Commission issued a temporary certificate authorizing Sea Robin to proceed with the construction and operation of the 14,000 horsepower of compression at Block 149 Station.

The proposed construction in Docket No. CP73-87 is estimated to cost $18,700,800 for the proposed 47.1 miles of 30-inch diameter pipeline and $6,427,700 for the installation of the 14,000 horsepower compressors, which are being installed in Block 149 Station pursuant to a temporary certificate issued May 3, 1973.

In Docket No. CP73-87 Sea Robin further proposes to increase its contract demand quantity for United Gas Pipe Line Company (United) and Southern Natural Gas Company (Southern) from 400,000 Mcf/d to the 458,500 Mcf/d for each company, or a total sales contract demand of 917,000 Mcf per day.

Data submitted by Sea Robin on April 13, 1973, in its Exhibit F-IV indicates that the construction of facilities in Docket No. CP73-87 will have minimal environmental impact. The proposed pipeline route appears to be generally stable and will not cross any safety fairways or shipping lanes. Construction activities on the surface of the Gulf of Mexico would create an increase in barge traffic for several months. Following the relatively short construction period, there should be no effect on the aquatic community, recreation, or commercial fishing in the area. When construction is completed, the potential adverse effects would be limited to increases in the noise levels and exhaust gases of combustion associated with the compressor facilities on the production platform. The short-term use of the environment for the construction of the proposed project should not significantly affect the maintenance and enhancement of the long-term productivity of the area involved. The Commission finds that Sea Robin's application does not constitute a major Federal action having any significant effect on the environment.

On March 28, 1973, Sea Robin filed a supplement to its application in CP73-87. Revised Exhibits L and N were filed on May 1, 1973. A further supplement was submitted on July 11, 1973. On July 17, Sea Robin submitted written assurances from producers seeking certificates under the Commission's rules § 2.75 that the gas reserves involved would continue to be dedicated to Sea Robin.

Sea Robin indicates that the maximum capacity of its mainline system from Block 149 to the Erath, La., extraction plant to be 1,255,016 Mcf/d after construction of facilities proposed in Docket Nos. CP73-87 and CP73-277. Based on producer-supplied projections, total maximum day flows including transportation volumes for July 1974 are to be 1,178,900 Mcf/d and that the proposed facilities will be adequate to transport maximum day volumes.

In Docket No. CP73-277, Sea Robin filed an application on April 13, 1973, to uprate an existing 10,500 horsepower compressor and the two 7,000 horsepower compressors at Block 149 Station to 12,359 horsepower each, amounting to a total of 37,050 horsepower. The estimated cost of uprating of three compressors units is $671,800. Sea Robin certifies that the proposed facilities will be installed and operated pursuant to the provisions of the Natural Gas Pipe Line Safety Act of 1968. Sea Robin states that the uprating of compressors will increase its pipeline capacity by 35,000 Mcf/d at minimum cost.

In Docket No. CP69-305, United Gas Pipe Line Company and Southern Natural Gas Company filed a joint application on December 21, 1972, to amend an existing certificate to exchange gas to increase the exchange volume from 400,000 Mcf per day to 425,200 Mcf. United will take delivery of Southern's gas at the delivery point from Sea Robin's pipeline at Erath, Louisiana, and redeliver equal volumes of gas at an existing point of interconnection near Bayou Sale, St. Mary Parish, Louisiana. United states that no additional facilities are required to exchange the additional gas with Southern. On August 19, 1969, 42 FPC 556, the Commission issued a certificate of public convenience and necessity to United and Southern to exchange a maximum 400,000 Mcf/d although the applicants had sought authorization for an exchange of a maximum 750,000 Mcf/d, based on the then-projected ulti-

mate capacity of Sea Robin Pipe Line. On February 8, 1973, the Commission issued a temporary certificate authorizing the temporary increase in the exchange volumes to 425,200.

As Sea Robin proposes to increase its sales contract demand level to Southern by 58,500 Mcf/d, as well as transport the 25,200 Mcf/d proposed in Docket No. CP73-162, the proposal of joint applicants for exchange may require amendment. Their evidence herein should support the proposed exchange volumes and show the facilities, if any, required.

Petitions to intervene in these proceedings have been filed as Associated Gas Distributors, Columbia Gas Transmission Corporation, Laclede Gas Company, Mississippi River Transmission Corporation, Mississippi Valley Gas Company, and South Carolina Electric and Gas Company. None of these petitioners presently requests a formal hearing.

In Docket No. CP73-162 Sea Robin on December 21, 1972, filed an application to transport volumes of gas up to 25,200 Mcf per day for Southern Natural Gas Company to be purchased from Texaco Inc., in Ship Shoal Block 225 and Eugene Island Blocks 260 and 275, and deliver the gas to United Gas Pipe Line for the account of Southern at Erath, Louisiana. Minor facilities to receive the gas into Sea Robin's existing system have been installed by Southern under its existing budget authorization. Sea Robin states that no additional facilities, other than those of its overall system are necessary to transport the proposed volumes. On February 8, 1973, Sea Robin was granted a temporary certificate authorizing the transportation of said gas for Southern. On March 9, 1973, Sea Robin filed a statement in Docket No. CP73-162 submitting its tariff sheet Rate Schedule X-6, Vol. No. 2 and attached an estimate of 1973 and January 1974 transportation volume contract demand and revenues for Southern of 16,300 Mcf. Sea Robin proposes to charge for its service a monthly contract demand of $1.21 per Mcf.

An evidentiary hearing is required to determine the need for increased capacity on Sea Robin's pipeline in the light of total gas supply picture (both attached reserves for sales and services which are pursuant to final Commission authorizations and anticipated gas reserves not yet attached), and the economic feasibility of Applicants' proposals, and all other public convenience and necessity criteria for determining whether certificates are to be issued in the consolidated dockets.

Due notice of these applications have been issued and published in the FEDERAL REGISTER.

Docket No.	Date of notice	Date of FEDERAL REGISTER	FEDERAL REGISTER citation
CP73-87	Oct. 18, 1972	Oct. 21, 1972	37 FR 22775.
CP73-87 Amendment	May 7, 1973	May 16, 1973	38 FR 12826.
CP73-162	Jan. 10, 1973	Jan. 16, 1973	38 FR 1601.
CP73-277	May 7, 1973	May 16, 1973	38 FR 12826.

At a hearing held on October 2, 1973, the Commission on its own motion received and made a part of the record in Docket No. CP73-277 all evidence, including the application, as amended and supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Sea Robin Pipeline Company an uncorporated joint venture organized under the laws of the State of Louisiana by United Offshore Company and Southern Deep Water Company and having its principal place of business in Shreveport, Louisiana, is a "natural gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its Order issued March 14, 1969, Docket No. CP69-48 (41 FPC 257).

(2) The facilities hereinbefore described as more fully described in the application in Docket No. CP73-277 are to be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation of natural gas by Sea Robin are subject to the requirements of sections (c) and (e) of section 7 of the Natural Gas Act.

(3) Sea Robin is able and willing properly to do the Acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, Rules and Regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation of natural gas by Sea Robin are required that public convenience and necessity and certificate therefore should be issued as hereinafter ordered and conditioned.

(5) The proceedings in Docket Nos. CP73-87, CP73-162 and CP69-305 contain common questions of fact and law and therefore good cause exists to consolidate these proceedings for purpose of hearing and decision.

(6) The participation of the above-named petitioners may be in the public interest.

The Commission orders:

(A) A certificate of public convenience and necessity is hereby issued authorizing Sea Robin Pipeline Company to construct and operate the proposed facilities in Docket No. CP73-277 and to transport and deliver natural gas as hereinbefore described as more fully described in the application as amended and supplemented upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Sea Robin's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (c)(1), (c)(3), (c)(4), (e), (f), and (g), and (a).

(C) The facilities authorized herein shall be constructed and placed in actual operation as provided by paragraph (b) of § 157.20 of the Commission's regulations, within one year from the date of this order.

(D) The above-named petitioners are permitted to intervene subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such interveners shall be limited to matters affecting the asserted rights and interests as specifically set forth in their petitions to intervene; and provided further that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved, because of any orders the Commission enters in these dockets.

(E) The proceedings in Docket Nos. CP73-87, CP73-162, and CP69-305 are hereby consolidated for the purpose of hearing and decision and are designated as *Sea Robin Pipeline Company et al.,* Docket No. CP73-87 et al.

(F) On or before October 30, 1973, Applicants and persons in support of the applications shall file with the Commission and serve upon all parties including the Office of Administrative Law Judges and the Commission staff, their prepared testimony and exhibits in support of the applications filed in these proceedings and in sustaining their burden of proof on the issues of the need for increased capacity on Sea Robin's pipeline in the light of total gas supply picture (both attached reserves for sales and services which are pursuant to final Commission authorizations and anticipated gas reserves not yet attached), the economic feasibility of Applicants' proposals, and all other public convenience and necessity criteria for determining whether certificates are to be issued in the consolidated dockets.

(G) Pursuant to the authority of the Commission under the provisions of the Natural Gas Act, particularly sections 7, 15, and 16 thereof, a public hearing shall be held concerning the public convenience and necessity issues involved in the applications filed by the Applicants in these consolidated proceedings on a date to be set by the Presiding Administrative Law Judge, with concurrence of the parties to the proceeding. Hearings should be held and concluded as expeditiously as possible after conclusion of the conference and prehearing matters.

(H) A prehearing conference will be convened by the Presiding Law Judge commencing on November 15, 1973, at 10:00 a.m. (EST) at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, pursuant to § 1.18 of the rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-21868 Filed 10-12-73;8:45 am]

[Docket No. E-7618]

SOUTHERN CALIFORNIA EDISON CO.

Request for Clarification of Billing Procedures

OCTOBER 5, 1973.

Take notice that on July 23, 1973, Southern California Edison Company

(Edison) tendered a letter requesting the Commission to resolve a problem of the proper computation of billing under Edison R–1 and R–2 rates.

Edison states that these rates became effective on November 14, 1971 as a result of Commission Opinion No. 654, issued March 19, 1973. The cities of Anaheim and Riverside, California (Cities) have objected to the method employed by Edison in prorating their accounts and have withheld payment on the difference in amount between the Edison method and the method the Cities contend appropriate.

Edison claims that the methods advocated by Cities may result in unreasonably high or unreasonably low charges and are inconsistent. The company states that the method it employs is used for all its accounts regardless of size and is a recognized procedure in the industry.

Any person desiring to be heard or to protest said request should file a petition to intervene, unless such petition has been filed previously, or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21875 Filed 10-12-73;8:45 am]

[Docket No. RP74-6]

SOUTHERN NATURAL GAS CO.

Filing of Proposed Tariff Changes

OCTOBER 5, 1973.

Take notice that Southern Natural Gas Company (Southern) on October 1, 1973, tendered for filing proposed original tariff sheets to its FPC Gas Tariff, Sixth Revised Volume No. 1 containing an Index of Requirements specifying the gas requirements for each customer at each delivery point. Southern states that the Index has been prepared from responses received from all customers to a requirements questionnaire and will be used by Southern in curtailing deliveries of gas to its customers pursuant to the curtailment plan filed by Southern with the Commission on August 2, 1973, in Docket No. RP74–6. Southern proposes an effective date for said Index of Requirements of November 1, 1973.

Copies of this tariff filing have been served upon all jurisdictional customers and upon interested state commissions.

Any person desiring to be heard or to protest said appplication should file a protest, or if not previously granted intervention in Docket No. RP74–6, file a petition to intervene with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21874 Filed 10-12-73;8:45 am]

[Docket No. CP73-154 etc.]

SOUTHERN NATURAL GAS CO. ET AL.

Order Consolidating Proceedings, Granting Interventions, and Motion To Consolidate Proceedings

OCTOBER 5, 1973.

By order issued September 24, 1973, the Commission consolidated the proceedings in Docket Nos. CP73–154, CI73–698, CI73–839, CI74–37, CI74–38, CI74–39, and CP74–28, granted interventions, phased the proceedings, and established procedural dates for a hearing upon the issues raised by the applications of the Producers[1] for the sale of natural gas to Southern Natural Gas Company (Southern) pursuant to section 7(c) of the Natural Gas Act,[2] and pursuant to § 2.75[3] of the Commission's General Policy Statements, the Optional Pricing Procedure For Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[4] (hereinafter § 2.75) from the Big Escambia Creek Field, Escambia County, Alabama.

Devon Corporation (Devon) and Eason Oil Company (Eason) have also filed applications for the sale of natural gas to Southern from the Big Escambia Creek Field pursuant to § 2.75 and these applications will be consolidated with the previously consolidated proceedings in Docket Nos. CP73–154 et al. The terms of the contracts filed by Devon and Eason are identical to the terms of the contracts filed by the other Producers, i.e., an initial rate of 55.0 cents per MMB.t.u. at 14.65 p.s.i.a. with a 1.0 cent per MMB.t.u. price escalation every two years, reimbursement to the Producer of 87.5 percent of any new or increased taxes, and a contract term of twenty (20) years. Devon and Eason are also requesting pregranted abandonment.

Devon's application was filed on August 20, 1973. Notice of that application was issued August 30, 1973, and published in the FEDERAL REGISTER on September 6, 1973 (38 FR 24259). Timely protests or petitions to intervene were due on or before September 24, 1973, and were filed by the following parties:

Associated Gas Distributors.
Southern Natural Gas Company.

Eason's application was filed on August 22, 1973. Notice of that application was issued on September 6, 1973, and published in the FEDERAL REGISTER on September 13, 1973 (38 FR 25471). Timely protests or petitions to intervene were due on or before September 28, 1973, and were filed by the following parties:

American Public Gas Association.
Southern Natural Gas Company.
Phillips Petroleum Company.

In addition to its application, Devon filed a motion requesting that its application be consolidated with the proceedings that had been previously consolidated by the Commission. As this order consolidates the applications of Devon and Eason with the other Producer applications, Devon's motion is granted.

In order that these consolidated proceedings not be delayed, the procedural dates established by our order of September 24, 1973, in Docket Nos. CP–73–154 et al. will be adopted as the procedural dates for a hearing in the Gas Supply Phase of these proceedings. All Producers shall present their evidence and testimony at that hearing. There is no reason why separate hearings should be held to consider the applications of Devon and Eason or to delay these proceedings because of the filings by Devon or Eason.

The Commission finds:

(1) It is necessary and in the public interest that the proceedings in Docket Nos. CI74–118 and CI74–140 be consolidated with the other proceedings in Docket Nos. CP73–698, CI73–839, CI74–37, CI74–38, CI74–39, and CP74–28.

(2) It is necessary and in the public interest that the applications of Devon Corporation and Eason Oil Company be set for formal hearing in the Gas Supply Phase of these consolidated applications to address the issues raised by the Producer applications as set forth by the Commission's order of September 24, 1973, in the consolidated proceedings, which order provided for the phasing of the consolidated proceedings as set forth in that order.

(3) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Com-

[1] Mallard Exploration, Inc. (Operator) et al. (Mallard), Exxon Corporation (Exxon), Koppers Company (Koppers), St. Regis Paper Company (St. Regis), and Escuhbia Oil Company (Escuhbia).

[2] 15 U.S.C. § 717, et seq. (1970).

[3] 18 CFR § 2.75 (1973).

[4] Statement of Policy Relating to Optional Procedure For Certificating New Producer Sales of Natural Gas, 48 FPC 218 (1972), as amended, Order No. 455–A, 48 FPC ____ (issued September 8, 1972), appeal pending sub nom. John E. Moss, et al. v. FPC, No. 72–1837 (D.C. Cir.).

mission's rules of practice and procedure, and the Regulations Under the Natural Gas Act (18 CFR, Chapter I), Docket Nos. CI74–118 and CI74–140 are consolidated with Docket Nos. CP73–154, CI73–698, CI73–839, CI74–37, CI74–38, CI74–39, and CP74–28.

(B) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That such intervention shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(C) A public hearing on the issued presented in the Gas Supply Phase of these consolidated proceedings (See Order of September 24, 1973, in Docket Nos. CP73–154 et al., for a description of the Gas Supply Phase of these proceedings.) shall be held commencing October 23, 1973, at 10:00 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The order of September 24, 1973, in Docket Nos. CP73–154 et al. provided for the designation of an Administrative Law Judge to preside at the hearing in the Gas Supply Phase of these consolidated proceedings.

(D) Applicants and all intervenors supporting the applications shall file their direct testimony and evidence pertaining to the Gas Supply Phase of these consolidated proceedings on or before October 10, 1973.

(E) The Commission Staff, and any intervenor which may oppose the applications, shall file their direct testimony and evidence pertaining to the Gas Supply Phase of these proceedings on or before October 17, 1973.

(F) All rebuttal testimony and evidence pertaining to the Gas Supply Phase of these proceedings shall be served on or before October 23, 1973.

(G) All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these consolidated proceedings.

(H) The Presiding Administrative Law Judge's decision on the issues presented in the Gas Supply Phase of these consolidated proceedings shall be rendered on or before November 28, 1973. All briefs on exceptions shall be due on or before December 7, 1973, and all briefs opposing exceptions shall be due on or before December 14, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21878 Filed 10–12–73;8:45 am]

[Docket No. RP73–99]

SOUTHWEST GAS CORP.

Motion To Place Tariff Sheet Into Effect

OCTOBER 4, 1973.

Take notice that on September 27, 1973, Southwest Gas Corporation (Southwest) filed with this Commission a motion to place into effect on October 26, 1973, the following listed tariff sheet to Southwest's FPC Gas Tariff filed May 5, 1973: Original Volume No. 1, tab 1, as amended and filed with the motion. Southwest cites as the basis for this filing section 4(e) of the Natural Gas Act and ordering paragraph (E) of the Commission's order issued May 25, 1973 in the captioned proceeding.

Concurrent with the filing of the motion, Southwest tendered to the Commission a Substitute Third Sheet 3–A which set forth rates identical to those suspended in the captioned proceeding together with the offset under the purchase gas adjustment clause effective October 1, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petition or protests should be filed on or before October 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21873 Filed 10–12–73;8:45 am]

[Rate Schedule Nos. 261 et al.]

SUN OIL CO. ET AL.

Rate Change Filings

OCTOBER 4, 1973.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.[1]

Any person desiring to be heard or to make any protest with reference to said filings should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21866 Filed 10–12–73;8:45 am]

[1] Appendix will appear in the Notices Section of the issue for October 16, 1973.

[Docket No. CP74–37, Docket No. CP74–43]

TENNESSEE GAS PIPELINE CO. AND TRANSCONTINENTAL GAS PIPE LINE CORPORATION

Notice Canceling Hearing

OCTOBER 4, 1973.

On September 26, 1973, an order was issued consolidating proceedings, granting intervention and scheduling formal hearing. Notices of withdrawal of the applications in the above-designated dockets were filed by the Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., and Transcontinental Gas Pipe Line Corporation on September 26, 1973, and October 2, 1973, respectively.

Notice is hereby given that the hearing scheduled for October 10, 1973, is hereby canceled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21876 Filed 10–12–73;8:45 am]

[Docket No. E–8003]

FLORIDA POWER AND LIGHT CO.

Proposed Amendments to Electric Tariff

OCTOBER 4, 1973.

Take notice that on September 21, 1973, Florida Power and Light Company (FP&L) tendered for filing proposed changes to its FPC Electric Tariff, Original Volume No. 1.

FP&L states that the original tariff was accepted for filing on March 29, 1973, suspended for five months and a hearing thereon ordered, now scheduled to commence on October 23, 1973.

According to FP&L, these changes in the tariff result from negotiations between its rural electric cooperative customers, who have intervened in this docket, and the company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protest should be filed on or before October 15, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection. Any person who has previously filed a petition need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–22015 Filed 10–12–73;8:45 am]

[Docket No. RP71–119]

PANHANDLE EASTERN PIPE LINE CO.

Filing of Proposed Curtailment Plan

OCTOBER 5, 1973.

Take notice that on October 1, 1973, Panhandle Eastern Pipe Line Company

(Panhandle) filed revised tariff sheets[1] setting forth curtailment procedures to be operative during periods of curtailed deliveries on Panhandle's system. Panhandle states that the proposed curtailment procedures are in accordance with the policies and priorities of service adopted by the Commission in its Order No. 467, as amended. Panhandle states that, if the Commission does not extend the effectiveness of its present curtailment procedures until the completion of this proceeding, the proposed tariff sheets are proposed to be effective on November 1, 1973.

Any person desiring to be heard or to make any protest with reference to the proposed tariff sheets submitted by Panhandle to effectuate curtailment and interruption policies consistent with the Commission's Order No. 467 should, on or before October 15, 1973, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the participants parties to the proceeding. Persons wishing to participate as parties in any hearing therein, other than those parties previously permitted to intervene in this proceeding by the Commission, must file petitions to intervene in accordance with the Commission's rules. Panhandle's report and its proposed revised tariff sheets are on file with the Commission and available for public inspection.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-22012 Filed 10-12-73;8:45 am]

NATIONAL COMMUNICATIONS SYSTEM

TIME AND FREQUENCY REFERENCE INFORMATION IN FEDERAL TELECOMMUNICATION SYSTEMS

Proposed Federal Telecommunication Standard

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the National Communications System (NCS)[1] was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communication interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of the NCS to accomplish this mission.

The proposed Federal standard, which is responsive to requirements specified by various government agencies, was developed by a subcommittee of the FTSC and approved as adequate for formal coordination by the FTSC. This proposed Federal Telecommunication Standard specifies the common precise time and frequency (T&F) reference to be used by Federal Telecommunications Systems. This will facilitate proper interfacing of Federal Telecommunication Systems with users and other systems employing T&F dependent technologies.

Prior to the submission of the final endorsement of this proposal to the Office of Telecommunications Policy (OTP), Executive Office of the President; and the General Services Administration (GSA), it is essential to assure that proper consideration is given the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views. Interested parties may submit comments to the Office of the Manager, National Communications System, ATTN: NCS-TS, Washington, D.C. 20305, by December 14, 1973.

GORDON T. GOULD, Jr.,
Lieutenant General, USAF,
Manager.

OCTOBER 10, 1973.

PROPOSED FEDERAL TELECOMMUNICATION STANDARD

TIME AND FREQUENCY REFERENCE INFORMATION IN TELECOMMUNICATION SYSTEMS

Category of standard. System standard.

Explanation. Coherence of time and frequency (T&F) information utilized by telecommunication systems is of great importance to facilitate proper interfacing with users and other systems. The purpose of this Federal Telecommunication Standard is to ensure that the existing standards based on Coordinated Universal Time (UTC) are consistently utilized by Federal agencies and departments. The terms "coherence" and "reference" as used herein do not imply the need of operating on identical frequencies. The operating frequencies and time markers must be known in terms of the standard values but may be offset intentionally by known amounts. "Coherence" and "reference" shall be understood to be within a tolerance commensurate with the individual system capability.

Approving authority. Concurred in by the Office of Telecommunications Policy, approved by the General Service Administration.

Applicability. This standard is applicable to all Federal telecommunication systems (including user facilities appended to these systems) which are subject to interfacing with other functionally similar Federal telecommunication systems that employ T&F dependent technology.

Maintenance agency. Office of the Manager, National Communications System.

Cross index.

a. Code of Federal Regulations, Title 32, Chapter 1, Subchapter M, part 275.

b. Title 15, US Code 272.

c. Barnes, J. A. and Winkler, G. M. R. "The Standards of Time and Frequency in the U.S.A.", Proceedings of the 26th Annual Symposium on Frequency Control, Electronic Industries Association, Washington, D.C., June 1972.

Implementation schedule. Effective upon date of publication.

Waivers. The probability of a situation arising which would require a waiver to this standard is virtually nil. However, in the unlikely event a situation is encountered which prevents application of this standard a complete description of its nature and circumstances should be forwarded to the Manager, National Communications System, NCS-TS, Washington, D.C. 20305.

Specification. All applicable telecommunication systems and connecting user facilities shall be referenced to the existing standards of time and frequency maintained by the U.S. Naval Observatory, UTC (USNO), and the National Bureau of Standards, UTC (NBS).

UTC (USNO) and UTC (NBS) are coordinated clock time scales which are kept by these two agencies in agreement with each other and of the international standard time maintained by Bureau Internationale de L'Heure, UTC (BIH), of which the two agencies are main contributors. UTC (USNO) is the direct reference used by a number of T&F distribution systems such as: Loran C, VLF transmissions, Defense Satellite Communication System, Naval Navigation Satellite System, and others. UTC (NBS) is used as the direct reference for the T&F services of the NBS such as: WWV, WWVH, WWVB, etc. For the purpose of this document, the coordinated values of UTC will be considered the standard values of time and frequency.

Qualifications. None.

Where to obtain copies of the specification of the standard. Federal Government activities should obtain copies from established sources within each agency. Where there is no established source, purchase order should be submitted to the General Services Administration, Specification Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, D.C. 20407. Refer to Federal Telecommunication Standard, No. —.

[FR Doc.73-21892 Filed 10-12-73;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Public Meeting

The regular fall meeting of the Business Research Advisory Council will be held on October 24, 1973, at 9:30 a.m., in Conference Room B of the Interdepartmental Auditorium, 14th and Constitution Avenue NW., Washington, D.C. Agenda for the meeting follows:

[1] These tariff sheets are designated as Second Revised Interim Second Revised Sheet No. 42, and Second Revised Interim Original Sheets Nos. 42-A to 42-F to Panhandle's FPC Gas Tariff, Original Volume No. 1.

[1] DoD Directive 5100.41 "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

1. Election of officers.
2. Remarks of the Commissioner of Labor Statistics.
3. A seminar on the ongoing revision of the Consumer Price Index: a. Time schedule; b. Concepts; c. Sample; d. Status of surveys.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2599.

Signed at Washington, D.C., this 5th day of October 1973.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.73-21887 Filed 10-12-73;8:45 am]

Occupational Safety and Health Administration

[V-73-27]

COLE, DIVISION OF LITTON INDUSTRIES

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of Application.* Notice is hereby given that Cole, Division of Litton Industries, 850 Third Avenue, New York, New York 10022, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.-108(c) (2), (3), and (6) Dip Tanks (Overflow pipes and bottom drains).

The address of the place of employment that will be affected by the application is as follows: Cole, Division of Litton Industries, 601 Loucks Mill Road, York, Pennsylvania 17405.

The applicant certifies that employees who would be affected by the variance have been notified by posting a copy of the application where notices to employees are normally posted. In addition, the employees were informed of their right to petition the Assistant Secretary for a hearing. A copy was also given to Mr. R. L. Boyd, President, Local 4407, United Steelworkers of America.

Regarding the merits of the application, the applicant states that the movable dip tanks in use at its York facility do not contain overflow pipes or automatic bottom drains as required for dip tanks containing flammable liquid, in accordance with 29 CFR 1910.108(c) (3) and (6).

The applicant contends that under present conditions the paint dip tanks room provides employment and a place of employment as safe and healthful as those required by the standard.

The applicant states that there would be an induced danger factor if it were to comply with the standard because employees have been instructed in accordance with present dip tank room procedures. Furthermore, if drain bases (two per tank) were installed, a tripping hazard would exist for employees trying to make rapid exit past the three tanks in case of emergency or fire.

The requirement of § 1910.108(c) (3) and (6), that dip tanks of over 500 gallon capacity be equipped with bottom drains automatically and manually arranged to quickly drain the tank in the event of fire should not be held applicable in the circumstances of this case. It appears that this portion of the standard, which appears in the standards of the National Fire Protection Association, was designed by that association primarily to prevent damage to the liquid contained in the tanks by water as well as fire, rather than specifically for the protection of employees.

The applicant states that there is usually no more than one person in the paint dip room at any one time and he is the operator. There are two exits from this room each of which is approximately 10 feet from the operator's position. The paint dip room is enclosed by four block walls.

The paint dip room is equipped with automatic water sprinklers (each of which is activated individually) and an automatic carbon dioxide extinguishing system. This system consists of two banks of fifteen bottles each which are located in the area outside the dip room. Each bottle has a capacity of 100 pounds. The second bank of fifteen carbon dioxide bottles is designed as a backup system. The carbon dioxide extinguishing equipment is designed to be activated and extinguish any fire prior to activation of the water sprinkler system. The carbon dioxide system provides complete protection for the entire paint dip room including the dip tanks themselves. Both the water extinguisher system and the carbon dioxide extinguisher system conform with NFPA standards. Activation of the CO_2 equipment also automatically stops the conveyor system and paint recirculating pumps; sounds alarm; and shuts off the gas supply to the oven in a separate drying area which is outside the paint dip room. The conditions employed in the paint dip room have been specifically approved by the Factory Insurance Association.

The paint dip room is also equipped with ports which may be opened and utilized for hand operated fire fighting equipment. In addition, the room is equipped with a floor drain leading outside the building and is designed so as to prevent any spilled liquid from overflowing into adjacent areas of the plant.

The CO_2 system which presently exists in the paint dip room is designed to and has been demonstrated to extinguish any fire occurring in that room within seconds and before the water sprinkler system is activated. In this connection, it is significant that only one extinguishing system is required by the standard.

In summary, the carbon dioxide extinguishing system described above obviates the necessity for such an automatic drainage system because it is capable of extinguishing the fire immediately and without damage to the paint or injury to employees.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 503, 400 First Street NW., Washington, D.C. 20210, and at the following Regional and Area Offices:

REGIONAL OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Room 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104.

AREA OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

U.S. Department of Labor, Occupational Safety and Health Administration, 1317 Filbert Street, Suite 1010, Philadelphia, Pennsylvania 19107.

Interested persons, including affected employers and employees, are invited to submit written data, views, and arguments regarding the application for a variance, not later than November 14, 1973. In addition, emloyers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application for a variance, not later than November 14, 1973, in conformity with the requirements of 29 CFR 1905.15. Submissions of written comments and requests for a hearing shall be in quadruplicate, and shall be addressed to the Office of Standards at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order, and supporting data filed by Cole, that an interim order is necessary to prevent undue hardship from being imposed upon the employer and its employees. Therefore, it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Cole, Division of Litton Industries be, and is hereby authorized to continue to use movable dip tanks as described in its application for a variance in lieu of the requirements of 29 CFR 1910.108(c) (2), (3), and (6).

Cole, Division of Litton Industries, shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of October 15, 1973, and shall remain in effect until a decision is rendered on the application for variance by Cole, Division of Litton Industries.

Signed at Washington, D.C., this 5th day of October 1973.

JOHN H. STEIGER,
Assistant Secretary of Labor.

[FR Doc.73-21889 Filed 10-12-73;8:45 am]

[V-72-4; V-73-7; V-73-10]

STERLING FAUCET CO., ET AL.

Withdrawal of Applications for Variances

1. *STERLING FAUCET CO.* Notice is hereby given that Sterling Faucet Co.,

Cast Products Plant, P.O. Box 798, Morgantown, West Virginia, has requested that its application for a temporary variance, which was noticed at 37 FR 28228 (December 21, 1972), be withdrawn. Accordingly, the application is considered withdrawn, and no further action will be taken on it.

2. *CRANSTON PRINT WORKS CO.* Notice is hereby given that Cranston Print Works Co., Fletcher, North Carolina 28732 has requested that its application for a temporary variance, which was noticed at 38 FR 3018 (January 31, 1973), be withdrawn. Accordingly, the application is considered withdrawn, and no further action will be taken on it.

3. *HOOVER BALL AND BEARING CO.* Notice is hereby given that Hoover Ball and Bearing Co., Glenvale Products Division, 1002 East Section Line, Malvern, Arkansas 72104, has requested that its application for a temporary variance, which was noticed at 38 FR 3644 (February 8, 1973), be withdrawn.

Accordingly, the application is considered withdrawn, and no further action will be taken on it. Further, the interim order which was granted on February 8, 1973 is deemed terminated.

Signed at Washington, D.C., this 5th day of October 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-21888 Filed 10-12-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 363]

ASSIGNMENT OF HEARINGS

OCTOBER 10, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 97699 Sub 35, Barber Transportation Co., now assigned November 26, 1973, at Cheyenne, Wyo., cancelled and reassigned to November 26, 1973, at Rapid City, S. Dak., in a hearing room to be later designated.

MC 2835 Sub 38, Adirondack Transit Lines, Inc., application dismissed.

Finance Docket No. 27501, Brown Transport, Securities, now being assigned October 29, 1973, in Room 305, 1252 West Peachtree Street NW., Atlanta, Georgia.

MC-F-11704, Mohawk Motor, Inc.—Purchase (Portion)—Michigan Express, Inc., and MC-F-11707, Indianhead Truck Line, Inc.—Purchase (Portion)—Michigan Express, Inc., now assigned November 26, 1973, at Detroit, Mich., postponed to December 10, 1973 (1 week), at Detroit, Mich., in a hearing room to be later designated.

MC 64808 Sub 16, W. S. Thomas Transfer, Inc., now being assigned hearing November 26, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11905, Caltran Systems, Inc.—Control—Terminal Transportation Company and Maat's Trucking Co., Inc., FD 27403, Caltran Systems, Inc., Notes, now being assigned hearing November 26, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126276 Sub 78, Fast Motor Service, Inc., now being assigned hearing November 28, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 118431 Sub 9, Denver Southwest Express, Inc., now being assigned hearing November 28, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

Investigation and Suspension Docket No. 8878, Increased Minimum weights, Grain Products & Related Articles, now being assigned November 27, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 98701 Sub 3, Cleveland Express, Inc., now being assigned continued hearing November 8, 1973 (1 day), at the Admiral Benbow, 317 Ramsey St., Knoxville, Tenn.

MC-124174 Sub 92, Momsen Trucking Co., Extension-Wallboard, now being assigned hearing November 29, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-114211 Sub 187, Warrne Transport, Inc., MC-123048 Sub 222, Diamond Transportation System, Inc., Extension-Wallboard, MC-124920 Sub 12, LaBar'S, Inc., now being assigned hearing December 3, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 108341 Sub 32, Moss Trucking Company, Inc., now assigned November 5, 1973, at Charlotte, N.C., will be held in Cavalier Inn, Heritage Room, 426 North Tryon Street, instead of Public Library, 310 North Tryon St.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21916 Filed 10-12-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 10, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42758—*Joint water-rail container rates—Pacific Far East Line, Inc.* Filed by Pacific Far East Line, Inc., (No. 4), for itself and interested rail carriers. Rates on general commodities, between ports in the Orient, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21914 Filed 10-12-73;8:45 am]

[Ex Parte No. 270 (Sub-No. 4)]

RAILROAD FREIGHT

Investigation of Coal Rate Structure

PRESENT: Dale W. Hardin, Commissioner, Coordinator of Ex Parte No. 270, having the authority to institute this investigation.

It appearing, That, in accordance with the report of the Coordinator issued on this date, 345 I.C.C. 1, which is hereby made a part hereof, the principal focus of the overall investigation in Ex Parte No. 270 instituted by report of the Commission, 340 I.C.C. 868, is on (1) the possibly self-defeating nature of general rail freight rate increases, (2) the disparities and distortions in the basic rate structure which may have resulted from the recent series of general increases, (3) the uneven effects of general increases on individual railroads,[1] and (4) the lack of railroad incentive to improve service in line with shipper requirements, with the objective of taking such corrective action as may be shown to be necessary including, but not limited to, those specified in the said report of the Coordinator;

It further appearing, That the United States railroads transported over 371 million tons of coal from mines in 1972, and derived therefrom revenue of over $1.4 billion; that coal comprises over one-fourth of all revenue freight tonnage originated, and yields more than one-tenth of the total freight revenue of the railroads; that railroads derive more revenue from transporting coal than from any other single commodity; and that the rates on coal have a significant impact on the overall rail freight rate structure;

It further appearing, That although coal is the number one revenue producer for the railroads, shippers and receivers in recent general increase proceedings have claimed that the proposed increases would result in reduced revenues because of the replacement of coal by competitive forms of energy and by diversion to non-rail forms of transportation;

It further appearing, That for the foregoing reasons the rate structure on coal is a matter that should be considered in this investigation;

It further appearing, That certain parties having an interest in the freight rate structure on coal, filed petitions on January 16, 1973, and August 13, 1973, asking the Commission to establish certain rules governing the use of source of data including the time period or periods to be used, the general sampling techniques to be used, statistical tests to be applied, performance factors to be taken into consideration in costing, and general costing techniques to be used; and that the United States Department of Agriculture filed a reply to the January 16, 1973, petition on February 5, 1973;

[1] Although the issue of uneven effects of general increases on individual railroads is to be considered in Ex Parte No. 270 (Sub-No. 3), Investigation of Railroad Freight Rate Structure—Uneven Effects of General Increases on Individual Railroads, evidence with respect to this issue, insofar as it relates to the rates on coal, will be considered relevant in this investigation.

It further appearing, That the freight rate structures on coal, as a whole, yield revenues substantially above the carriers' variable costs of performing the service, and that although cost studies prepared under recognized accounting standards and procedures will be accepted, such evidence may not be essential to a proper disposition of this sub-numbered proceeding at this stage of the proceeding;

And it further appearing, That the matters under consideration in this sub-numbered proceeding do not appear to constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321–47 (1970); that while it is not necessary to publicize the bases for this negative environmental determination—which obviates the need for following, at this stage of this specific proceeding at least, the detailed environmental impact procedures prescribed by section 102(2)(c) of the NEPPA—such information may prove useful and is attached hereto as appendix C; that any person desiring to express any views, arguments, or comments, regarding the environmental amenities involved in this proceeding is invited to participate by filing appropriate statements in accordance with the schedule set forth below; and that such statements should comply with this Commission's regulations (49 CFR 1100.250) regarding the filing of environmental pleadings; and good cause appearing therefor:

It is ordered, That under the authority of the National Transportation Policy (49 U.S.C. preceding section 1) and the specific provisions of part I of the Interstate Commerce Act in particular sections 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be and it is hereby instituted into the lawfulness of all rates on coal (bituminous, lignite, anthracite, etc.) maintained by railroads subject to the Interstate Commerce Act, and that said railroads to the extent they participate in the transportation of coal, be and they are hereby, made respondents.

It is further ordered, That the petitions filed on January 16, 1973, and August 13, 1973 be, and they are hereby, denied, for the reason that the action requested is unnecessary at this time for the purposes of this proceeding.

It is further ordered, That any person interested in this proceeding shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before October 30, 1973, the original and two copies of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing evidence, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleading that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding for the purposes specified in (2) above; and that persons not timely filing a statement of intention by October 30, 1973, will not be permitted to participate except upon a showing of good cause for such late participation and leave granted.

It is further ordered, That the respondents shall submit on or before January 7, 1974, in their opening statement provided in the next succeeding paragraph, comprehensive and detailed maps, diagrams, and representative rates showing the various rate structures on coal in which said respondent railroads participate, including rate formulas upon which the published rates are based and specific tariff references for all rates shown therein.

It is further ordered, That this proceeding be handled under modified procedure as provided by the Commission's general rules of practice, except that 20 copies of all statements submitted shall be filed with the Commission, and the filing and service of pleadings to be as follows:

(a) An opening statement of facts and argument may be submitted by any party to the proceeding on or before January 7, 1974.

(b) A statement or statements limited to rebuttal to any opening statement filed in (a) above may be submitted by any party to the proceeding on or before February 14, 1974. The opening statement to which the rebuttal statement is directed must be specifically identified.

(c) A reply (surrebuttal) limited to replying to a rebuttal statement or statements in (b) above may be submitted by any party on or before March 13, 1974. The rebuttal statement to which reply statement is directed must be specifically identified.

It is further ordered, That the evidence submitted in the statements filed (opening, rebuttal, and surrebuttal) must be served on all parties on the service list and must be divided in the manner as provided in appendix A hereto, and failure to do so may be cause for rejection of the pleading in its entirety.

In furtherance of the objective of this proceeding as stated in 345 I.C.C. 1, official notice will be taken of the material set forth in appendix B hereto and this Commission's final impact statement in Ex Parte No. 281 (especially the environmental source data embraced in appendix A to that statement) and may be used by the Coordinator to supplement the record in this proceeding.

Notice is given that the Coordinator may hold petitions filed in this proceeding for disposition in a Coordinator's report, and all parties should proceed upon the assumption that any petitions which may be filed in this proceeding will not justify any party's failure to comply with the scheduled due date for filing of statements.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of September 1973.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX A

Manner in Which Evidence Should be Submitted

All statements (opening, rebuttal and surrebuttal) must be divided into six categories (parts). All evidence relating to matters pertaining to the National Environmental Policy Act, 1969, should be submitted with regard to the six categories below and should comply with the regulations set forth at 49 CFR 1100.250 regarding the submission of environmental pleadings.

PART I

Railroad Freight Rate Structures on Coal

Maps, diagrams, representative rates and narratives depicting the freight rate structures and formulas upon which the freight rates on coal are based, as of September 1, 1973, should be shown. Complete tariff references must be given for all rates shown. Evidence designed to show the traffic movements and the respondents' participation should be submitted. Representative carload movements should show origin, destination, rate, minimum weight, actual loading, carload revenue, actual and short-line distances, ton-mile earnings based on actual distance, and estimate of extent rates are used. Multiple car and trainload movements should show origin, destination, actual and short-line distances, rate, required minimum weight, actual loading, carload revenue, rate reduction over single carload rate, ton-mile earnings based on actual distances, and an estimate of the extent to which such multicar-type movements are made (tons moved).

PART II

Self-Defeating Nature of General Increases on Coal

A. Respondents should show the general rate increases sought, those authorized by the Commission, and those ac-

tually applied by the carriers individually or any other rate change, on all significant movements of coal beginning with and subsequent to Ex Parte No. 256 increases. Reasons for the application of increases less than those authorized as well as other rate changes should be set forth.

B. Evidence by any party designed to show that general rate increases on coal may or may not have been self-defeating in nature with respect to generating revenues.

PART III

Disparities and Distortions Caused by General Increases

Evidence, by any party, relating to rate changes, affected by general rate increases, for the movement of coal beginning with and subsequent to Ex Parte No. 256 increases which may have resulted in disparities or distortions between competing shippers and/or localities. This evidence should be accompanied by formulas upon which the freight rates on coal are based and must be accompanied by complete tariff references for all rates shown. This evidence should specify any reason, if known, for such disparities and distortion.

APPENDIX A

PART IV

Uneven Effects of Increases on Individual Railroads

Evidence, by any party, designed to show the uneven revenue effects (if any) of general rate increases in freight rates on coal on individual railroads; why these results may have occurred and what corrective action could be taken to remedy these effects.

PART V

Railroad Service

Evidence, by any party, bearing on the issue whether general increases have provided sufficient revenues to induce the railroads to undertake improvements in service to meet shippers' requirements.

Evidence, by any party, as to whether the railroads, in their proposed rates in general rate increase proceedings, have taken into account possible variations in coal services being provided shippers.

PART VI

Matters Not Otherwise Listed

All parties should endeavor to submit their evidence into one or more of the categories listed in Parts I through V above. Evidence submitted under Part VI should specifically indicate the purpose for which it is being introduced and the reason it does not come within one of the five foregoing categories. The principal focus of the investigation as set forth in the report of the Coordinator, 345 I.C.C. 1, should be kept in mind.

APPENDIX B

BIBLIOGRAPHY OF MATTERS OF WHICH OFFICIAL NOTICE WILL BE TAKEN

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In its opening statement of facts and argument, any party may submit evidence to rebut the matters set forth above. Such evidence should specifically identify the document to which the rebuttal matter is directed.

APPENDIX C

ENVIRONMENTAL ASSESSMENT

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 et seq., requires Federal agencies to consider environmental amenities in their decision-making process and directs that detailed environmental impact statements be issued in "major Federal actions significantly affecting the quality of our human environment." There is no question that the NEPA contemplates some agency action that does not require a comprehensive environmental impact statement because the action is minor or because it has so little ecological effect as to be inconsequential. *Citizens for Reid State Park* v. *Laird*, 336 F. Supp. 783 (D. Maine 1972). The term "major

Federal actions" refers to those actions that require substantial planning, time, resources, or expenditures. It describes the cost of a project, the amount of planning which preceded it, and the time required to complete it, but does not refer to its impact on the environment. *Hanley* v. *Mitchell*, 460 F. 2d 640 (2d Cir. 1972). The standard "significantly affecting the quality of the human environment, in turn, apparently pertains to those actions having an important or meaningful effect, direct or indirect, upon a broad range of aspects of the human environment. The cumulative impact with other actions must be considered. The two concepts are different and it is the responsibility of the agency to make its own threshold determination as to each in deciding whether a section 102 impact statement is necessary. *Hanley* v. *Mitchell, supra.*

Thus, a detailed environmental impact statement is not required every time a Federal agency acts or fails to act. Before such a statement becomes necessary, two threshold factors must coexist: the proposed action must be "major," and its effect on the environment must be "significant." *Town of Groton* v. *Laird*, 353 F. Supp. 344 (D. Conn. 1972). There appears to be a developing disagreement among the courts as to the proper construction to be accorded the term "significantly" which has been judicially characterized as "vague and amorphous." The Court in *Hanley* v. *Kleindienst*, 471 F. 2d 823, 830 (2d Cir. 1972), held that in making this determination:

> * * * the agency in charge, although vested with broad discretion, should normally be required to review the proposed action in the light of at least two relevant factors: (1) the extent to which the action will cause adverse environmental effects in excess of those created by existing uses in the area affected by it, and (2) the absolute quantitative adverse environmental effect of the action itself, including the cumulative harm that results from its contribution to existing adverse conditions or uses in the affected areas.

In contrast, one court has held that an impact "statement is required whenever the action arguably will have an adverse environmental impact," *Students Challenging Regulatory Agency Procedures (S.C.R.A.P.)* v. *United States*, 346 F. Supp. 189, 201 (D.D.C. 1972), to which Chief Judge Friendly, dissenting in the cited *Hanley II* case, has added the comment that "the matter must be fairly arguable." It is believed that no impact statement is, at this time, necessary here under any of the standards thus far enunciated by the courts.

It seems beyond doubt that the action under consideration here—the investigation of the railroad freight rate structure and of the effect of coal, its major revenue-producing commodity, upon this rate structure—constitutes a major Federal action within the meaning of the NEPA and the applicable CEQ guidelines, as presently construed by the courts. It is therefore necessary to consider the environmental significance of coal in the rate structure under consideration in order to reach a proper threshold decision as to the need for the issuance in this proceeding and at this time of a detailed environmental impact statement.

In assessing the environmental impact of the involved action, it must be remembered that no commodity of importance to the railroads better reflects the interplay of the many and varied factors influencing its movement, only one of which is the level of railroad rates and charges, than does coal. The Commission frequently has noted the intense competition that utility coal encounters from other energy sources and the railroads have been encouraged to innovate reduced rate proposals to stem the threat of diversion. See Coal to New Harbor Area, 311 I.C.C. 355 (1960); and Coal from Ky., Va., & W. Va., to Virginia, 308 I.C.C. 99 (1959). The rising demand for low-sulfur content fuels within recent years has introduced a further factor disrupting traditional patterns of coal movements by the railroads.

The movements of utility coal by the railroads have been influenced only insignificantly, if at all, by the authorization of general rate increases. The commitments to use rail-transported coal are long range and virtually fixed and reflect a supplier's contract to deliver a certain quantity of coal of a specified quality over the life of the agreement to a plant with burners and other facilities dedicated to the use of such coal. The railroad connecting the mine to the power plant is an integral part of the arrangement as if it were a signatory to the agreement (which it in fact may be); and adjustments in the rates and charges for the rail-haul involved, necessitated by intervening rising labor and other costs, may be provided for by escalation clauses in no way dependent upon our authorization of rail rate increases. As to this and similar traffic, the fears of any significant diversion of tonnages from the railroads as a result of the level of rail rates appear to be without foundation.

The level of the rail rates in relation to the level of the charges by trucks is, of course, a factor entering into the determination of the demand for rail service. But to suggest that the Commission should decline to authorize, or even to roll back past, increases in the rates and charges of the railroads that are or were compelled by rising labor and other costs, because of the possible diversionary effect of such action, assumes that the pressures of escalating costs have not fallen as heavily upon the truckers and that the truckers have been able to avoid increasing their rates and charges to the extent that the railroads have been forced to do. The facts support neither assumption.

In addition, it has been asserted that if rail rates on coal increase and as environmental restrictions on the use of high-sulfur content fuels also mount, users will seek to utilize other sources of power, such as nuclear energy, oil, solar power, or gasified or liquified coal. This argument is not persuasive. In the first place, sufficient technology does not exist at this time which would permit a diversion from coal in the production of much of our Nation's power. Secondly, coal is in much greater supply than other fuel sources even though it may, in the long run, prove to be more ecologically beneficial to use nuclear, oil, solar, or other energy sources instead of coal. There is no basis to conclude that rail rates on coal will cause any significant or unavoidable adverse effects upon the quality of our human environment, or that the Commission's investigation into the rail freight rate structure on coal will lead to other than beneficial, even if presently unforeseeable, ecological consequences.

In analyzing possible alternatives to the requested action, due consideration has been accorded the unlikely possibility that the Commission may find a need to raise the rail rates on coal even perhaps (though this is extremely dubious) to the point where it might become economically unfeasible for coal shippers to utilize the rails. This, in turn, might cause power manufacturers to move energy-producing plants nearer the coal fields and construct landscape-marring transmission lines across the face of our Nation, or require coal shippers to use motor carriers or other possibly more polluting forms of transportation. It is not possible at this early stage of this proceeding to foresee all possible alternatives, but the public can be assured that such alternatives and their likely environmental consequences will be considered at all stages of this subnumbered investigation in an effort to avoid adverse ecological effects such as those alluded to in this paragraph.

It is believed that the proposed investigation should assure future generations of the availability of adequate, responsive, and economical rail services for the transportation of coal and will not involve any irreversible and irretrievable commitments of resources. If issues should develop later in this proceeding which warrant further consideration of the environmental amenities or even the issuance of an impact statement in accordance with the detailed procedures prescribed in section 102(2)(c) of the NEPA, the Commission is fully prepared to pursue such courses of action at the appropriate time. As Judge Wright stated in *Scientists Institute for Public Information, Inc.* v. *Atomic Energy Commission*, No. 72-1331, United States District Court of Apeals for the District of Columbia Circuit, Decided June 12, 1973, environmental statements must be written late enough in the development process to contain meaningful information, but they must be prepared early enough so that whatever information is contained can practically serve as an input into the decision-making process. The Commission will constantly reevaluate the environmental issues in this sub-investigation proceeding with the view to determining whether an impact statement should be issued and if so, at what point it would be most meaningful. The comments and views of all interested per-

sons with respect to those issues are solicited.

[FR Doc. 73-21909 Filed 10-12-73;8:45 am]

[EX PARTE NO. 270 (Sub-No. 6)]

RAILROAD FREIGHT RATE STRUCTURE

Investigation of Scrap Iron and Steel

Present: Dale W. Hardin, Commissioner, Coordinator of Ex Parte No. 270, having the authority to institute this investigation.

It appearing, That scrap iron and steel represents a significant volume of the traffic transported by the railroads of this Nation;

It further appearing, That, as disclosed by a comparison of the 1966 and 1969 burden studies, there has been a decline in the net contribution to railroad freight revenues attributable to the transportation of iron and steel scrap;

It further appearing, That in recent rail general increase proceedings, it has been alleged that scrap iron and steel competes with iron ores;

It further appearing, That while the 1969 burden study discloses that iron and steel scrap is one of the top twenty positive revenue contributors for movements within official territory, iron ores are similar disclosed for movements within official territory to be one of the top twenty deficit contributors to railroad net revenues;

It further appearing, That an investigation of the freight rate structure of scrap iron and steel may be related to, and, at a future date, consolidated with Ex Parte No. 270 (Sub-No. 5), Investigation of Railroad Freight Rate Structure—Iron Ores;

It further appearing, That while the principal focus of this investigation, as well as other sub-numbered Ex Parte No. 270 investigations instituted by the Coordinator relating to specific commodities, is on (1) the possibly self-defeating nature of general rate increases, (2) the disparities and distortions in the basic rate structure which may have resulted from the recent series of general increases, (3) the uneven effects of general increases on individual railroads,[1] and (4) the lack of railroad incentive to improve service in line with shipper requirements, it is also incumbent upon the Commission to give due consideration to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321-47 (1970);

And it further appearing, That there are presently available insufficient facts and data to enable the Coordinator properly to assess and quantify the environmental consequences of the numerous alternatives that may be pursued in the investigation program envisioned in this proceeding as required by the NEPA; that participants in the proceeding will be invited, in accordance with the further procedures to be established at a later date herein, to submit facts and comments regarding the probable environmental consequences that may result from any action to be taken herein, and that such facts and comments will better allow the Coordinator to assess and define any ecological issues that may be present in this proceeding; that should it be found necessary in this proceeding to follow the detailed environmental impact statement procedures prescribed in section 102(2)(C) of the NEPA, such a statement will be prepared late enough in the development process to contain meaningful information, but early enough so that whatever information is contained in the statement can practically serve as input into the decision-making process (See Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission, decided June 12, 1973, No. 72-1331, United States Court of Appeals for the District of Columbia Circuit); and good cause appearing therefor:

It is ordered, That under the authority of the National Transportation Policy (49 U.S.C. preceding section 1) and the specific provisions of part I of the Interstate Commerce Act, in particular sections 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be, and it is hereby, instituted into the lawfulness of all rates on scrap iron and steel maintained by railroads subject to the Interstate Commerce Act and that said railroads to the extent they participate in the transportation of scrap iron and steel be, and they are hereby, made respondents;

It is further ordered, That any person interested in this proceeding shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before November 15, 1973, the original and two copies of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing evidence, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interest with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding for the purpose specified in (2) above; and that persons not timely filing a statement of intention by November 15, 1973, will not be permitted to participate except upon a showing of good cause for such late participation and leave granted;

It is further ordered, That following the circulation of the service list, a procedural order will be entered by the Coordinator directing the further procedures that must be followed in this investigation proceeding.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of September, 1973.

By the Commission, Commissioner Hardin, Coodinator.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21910 Filed 10-12-73;8:45 am]

[EX PARTE NO. 270 (Sub-No. 7)]

RAILROAD FREIGHT RATE STRUCTURE

Investigation of Lumber and Lumber Products

Present: Dale W. Hardin, Commissioner, Coordinator of Ex Parte No. 270, having the authority to institute this investigation.

It appearing, That rates on lumber and certain lumber products produced in the competing origin territories in the South and in the Pacific northwest have been vigorously contested in every rail general increase proceeding since 1966, and the proper level of rates on these commodities remains in dispute;

It further appearing, That because of the availability of transit and other factors, the rates on lumber and certain lumber products are related, and it has been alleged that this relationship may be distorted;

It further appearing, That in recent general increase proceedings, it has been argued that flat percentage increases on lumber and lumber products originating in the Pacific northwest may be self-defeating; and that in a number of recent general rail increase proceedings, the Commission has imposed a holddown on transcontinental transportation of lumber;

It further appearing, That with respect to holddowns proposed, and in some instances imposed by the Commission, southern producers of lumber and certain lumber products have argued that the Commission should not attempt to nullify geographical disadvantages;

It further appearing, That the relationship of rates on long-haul traffic and the rates on short-haul traffic is a matter that should be considered in an in-

[1] Although the issue of uneven effects of general increases on individual railroads is to be considered in Ex Parte No. 270 (Sub-No. 3), Investigation of Railroad Freight Rate Structure—Uneven Effects of General Increases on Individual Railroads, evidence with respect to this issue, insofar as it relates to the rates on scrap iron and steel, will be considered relevant in this investigation.

vestigation of railroad freight rate structure and the above-identified commodities exemplify such a relationship;

It further appearing, That the revenue derived from the rail transportation of lumber and lumber products represents a substantial portion of the total railroad revenue derived from the transportation of freight;

It further appearing, That while the principal focus of this investigation, as well as other subnumbered Ex Parte No. 270 investigations instituted by the Coordinator relating to specific commodities, is on (1) the possibly self-defeating nature of general rate increases, (2) the disparities and distortions in the basic rate structure which may have resulted from the recent series of general increases, (3) the uneven effects of general increases on individual railroads,[1] and (4) the lack of railroad incentive to improve service in line with shipper requirements, it is also incumbent upon the Commission to give due consideration to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321–47 (1970);

And it further appearing, That there are presently available insufficient facts and data to enable the Coordinator properly to assess and quantify the environmental consequences of the numerous alternatives that may be pursued in the investigation program envisioned in this proceeding as required by the NEPA; that participants in the proceeding will be invited, in accordance with the further procedures to be established at a later date herein, to submit facts and comments regarding the probable environmental consequences that may result from any action to be taken herein, and that such facts and comments will better allow the Coordinator to assess and define any ecological issues that may be present in this proceeding; that should it be found necessary in this proceeding to follow the detailed environmental impact statement procedures prescribed in section 102(2)(C) of the NEPA, such a statement will be prepared late enough in the development process to contain meaningful information, but early enough so that whatever information is contained in the statement can practically serve as input into the decision-making process (See Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission, decided June 12, 1973, No. 72–1331, United States Court of Appeals for the District of Columbia Circuit); and good cause appearing therefor:

It is ordered, That under the authority of the National Transportation Policy (49 U.S.C. preceding section 1) and the specific provisions of part I of the Interstate Commerce Act, in particular, sections 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be, and it is hereby, instituted into the lawfulness of all rates on lumber and lumber products maintained by railroads subject to the Interstate Commerce Act and that said railroads to the extent they participate in the transportation of lumber and lumber products be, and they are hereby, made respondents;

It is further ordered, That any person interested in this proceeding shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before November 26, 1973, the original and two copies of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing evidence, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interest with those of other interested parties by filing joint statements in orders to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding for the purpose specified in (2) above; and that persons not timely filing a statement of intention by November 26, 1973, will not be permitted to participate except upon a showing of good cause for such late participation and leave granted;

It is further ordered, That following the circulation of the service list a procedural order will be entered by the Coordinator directing the further procedures that must be followed in this investigation proceeding;

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the Office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of September 1973.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21913 Filed 10-12-73;8:45 am]

[1] Although the issue of uneven effects of general increases on individual railroads is to be considered in Ex Parte No. 270 (Sub-No. 3), Investigation of Railroad Freight Rate Structure—Uneven Effects of General Increases on Individual Railroads, evidence with respect to this issue, insofar as it relates to lumber and lumber products, will be considered relevant to this investigation.

[Ex Parte No. 270 (Sub-No. 3)]

RAILROAD FREIGHT RATE STRUCTURE

Investigation of Uneven Effects of General Increases on Individual Railroads

Present: Dale W. Hardin, Commissioner, Coordinator of Ex Parte No. 270, having the authority to institute this investigation.

It appearing, That in the report of the Coordinator issued on this date, 345 I.C.C. 1, which is hereby made a part hereof, it was determined to separate from the general investigation of the railroad freight rate structure the issue of the uneven effects of general increases on individual railroads;

It further appearing, That it was alleged by a number of parties in their initial statements filed in response to the order of December 11, 1970, instituting the Ex Parte No. 270 proceeding, that flat percentage general increases for regional or national application enable the strong lines "to reap a windfall" without sufficiently alleviating the financial distress of the weak lines;

It further appearing, That as disclosed by the following chart appearing in the Commission report in Ex Parte No. 299, Increases in Freight Rates and Charges to Offset Retirement Tax Increases—1973, — I.C.C. —, decided September 13, 1973, a flat percentage increase averaging out at over 2 percent would result in the following lines obtaining additional estimated revenues of $1 million more or less than their projected increases in retirement taxes:

Carrier	Projected revenue increase	Projected expense increase less Amtrak (contribution)
EASTERN		
Baltimore & Ohio	16,677,000	15,153,033
Chesapeake & Ohio	14,055,000	10,200,423
Elgin, Joliet & Eastern	1,033,000	2,754,200
Norfolk & Western	23,134,000	22,033,000
Penn Central Transportation	52,000,000	53,740,370
Reading Co	3,053,800	4,033,000
SOUTHERN		
Illinois Central	12,430,000	14,133,001
Louisville & Nashville	14,571,000	13,000,040
Seaboard Coast Line	18,124,749	17,071,732
Southern Rail (System)	22,253,000	17,201,873
WESTERN		
Burlington Northern	32,332,000	23,873,097
Chicago Rock Island & Pacific	9,031,000	10,723,000
Missouri Pacific	14,872,711	13,106,373
Southern Pacific Transportation	33,427,200	33,032,531
Union Pacific	25,739,000	29,511,272

It further appearing, That while the principal focus of this investigation is on the uneven effects of general increases on individual railroads, it is also incumbent upon the Commission to give due consideration to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–47 (1970);

And it further appearing, That there are presently available insufficient facts and data to enable the Coordinator properly to assess and quantify the environmental consequences of the numerous

alternatives that may be pursued in the investigation program envisioned in this proceeding as required by the NEPA; that participants in the proceeding will be invited, in accordance with the further procedures to be established at a later date herein, to submit facts and comments regarding the probable environmental consequences that may result from any action to be taken herein, and that such facts and comments will better allow the Coordinator to assess and define any ecological issues that may be present in this proceeding; that should it be found necessary in this proceeding to follow the detailed environmental impact statement procedures prescribed in section 102(2)(C) of the NEPA, such a statement will be prepared late enough in the development process to contain meaningful information, but early enough so that whatever information is contained in the statement can practically serve as input into the decision-making process (See *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission,* decided June 12, 1973, No. 72–1331, United States Court of Appeals for the District of Columbia Circuit); and good cause appearing therefor:

It is ordered, That under the authority of the National Transportation Policy (49 U.S.C. preceding section 1) and the specific provisions of part I of the Interstate Commerce Act, in particular sections 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be, and it is hereby, instituted into the uneven effects of general increases on individual railroads and that all railroads subject to the Interstate Commerce Act be, and they are hereby, made respondents;

It is further ordered, That any person interested in this proceeding shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before November 1, 1973, the original and two copies of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing evidence, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interest with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding for the purpose specified in (2) above; and that persons not timely filing a statement of intention by November 1, 1973, will not be permitted to participate except upon a showing of good cause for such late participation and leave granted;

It is further ordered, That following the circulation of the service list, a procedural order will be entered by the Coordinator directing the further procedures that must be followed in this investigation proceeding.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of September 1973.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21911 Filed 10-12-73;8:45 am]

[Ex Parte No. 270 (Sub-No. 5)]

RAILROAD FREIGHT RATE STRUCTURE

Investigation of Iron Ores

Present: Dale W. Hardin, Commissioner, Coordinator of Ex Parte No. 270, having the authority to institute this investigation.

It appearing, That iron ores represent a significant volume of the traffic transported by the railroads of this Nation;

It further appearing, That, according to the ICC Freight Commodity Statistics, the amount of iron ores transported decreased slightly between 1966 and 1969, but remained relatively constant in relation to the total amount of railroad traffic; and that, as disclosed by the 1966 and 1969 burden studies, the variable costs in transporting iron ores have increased at a rate higher than that of revenues;

It further appearing, That whereas the contribution made by iron ores in 1966 was substantial, the contribution in 1969 was practically nil, based on the burden studies, and exceeded the decline experienced by any other major rail-transported commodity;

It further appearing, That as shown by the 1966 and 1969 burden studies, there has been a significant change in traffic resulting from a sizeable increase in the average length of haul with a corresponding reduction in the revenue per ton-mile;

It further appearing, That iron ores are transported by rail in both domestic and import commerce and it has been alleged that the relation of rates between these movements may be distorted; and that it was suggested in Increased Freight Rates, 1970 and 1971, 339 ICC 125, 218, that any "revision of * * * basic rate relationships" on ex-lake rates on iron ore "should be brought to * * * [the Commission's] attention in Ex Parte No. 270";

It further appearing, That an investigation of the freight rate structure of iron ores may be related to, and, at a future date, consolidated with, Ex Parte No. 270 (Sub-No. 6), Investigation of Railroad Freight Rate Structure—Scrap Iron and Steel;

It further appearing, That while the principal focus of this investigation, as well as other sub-numbered Ex Parte No. 270 investigations instituted by the Coordinator relating to specific commodities, is on (1) the possibly self-defeating nature of general rate increases, (2) the disparities and distortions in the basic rate structure which may have resulted from the recent series of general increases, (3) the uneven effects of general increases on individual railroads,[2] and (4) the lack of railroad incentive to improve service in line with shipper requirements, it is also incumbent upon the Commission to give due consideration to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321–47 (1970);

And it further appearing, That there are presently available insufficient facts and data to enable the Coordinator properly to assess and quantify the environmental consequences of the numerous alternatives that may be pursued in the investigation program envisioned in this proceeding as required by the NEPA; that participants in the proceeding will be invited, in accordance with the further procedures to be established at a later date herein, to submit facts and comments regarding the probable environmental consequences that may result from any action to be taken herein, and that such facts and comments will better allow the Coordinator to assess and define any ecological issues that may be present in this proceeding; that should it be found necessary in this proceeding to follow the detailed environmental impact statement procedures prescribed in section 102(2)(C) of the NEPA, such a statement will be prepared late enough in the development process to contain meaningful information, but early enough so that whatever information is contained in the statement can practically serve as input into the decision-making process (See Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission, decided June 12, 1973, No. 72–1331, United States Court of Appeals for the District of Columbia Circuit); and good cause appearing therefor:

It is ordered, That under the authority of the National Transportation Policy (49 U.S.C. preceding section 1) and the specific provisions of part I of the Interstate Commerce Act, in particular sec-

[2] Although the issue of uneven effects of general increases on individual railroads is to be considered in Ex Parte No. 270 (Sub-No. 3), Investigation of Railroad Freight Rate Structure—Uneven Effects of General Increases on Individual Railroads, evidence with respect to this issue, insofar as it relates to the rates on iron ores, will be considered relevant in this investigation.

tions 1, 2, 3, 6, 12, 13, 15, 15a, and 20, an investigation be, and it is hereby, instituted into the lawfulness of all rates on iron ores maintained by railroads subject to the Interstate Commerce Act and that said railroads to the extent they participate in the transportation of iron ores be, and they are hereby, made respondents.

It is further ordered, That any person interested in this proceeding shall file with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before November 15, 1973, the original and two copies of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing evidence, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interest with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding for the purpose specified in (2) above; and that persons not timely filing a statement of intention by November 15, 1973, will not permitted to participate except upon a showing of good cause for such late participation and leave granted;

It is further ordered, That following the circulation of the service list, a procedural order will be entered by the Coordinator directing the further procedures that must be followed in this investigation proceeding.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy in the office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 28th day of September, 1973.

By the Commission, Commissioner Hardin, Coordinator.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21912 Filed 10-12-73;8:45 am]

[Notice No. 373]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 5, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74656. By order entered October 9, 1973, the Motor Carrier Board approved the transfer to M. D. Schmitt Transport, Ind., Independence, Iowa, of the operating rights set forth in Certificates Nos. MC-128497 (Sub-No. 2) and MC-128497 (Sub-No. 3), issued by the Commission January 15, 1969 and June 25, 1971, respectively, to Jack Link Truck Line, Inc., Dyersville, Iowa, authorizing the transportation of hide trimmings, not frozen, and animal hides, from Manchester, Iowa to Milwaukee, Wis.; hides and tails, from Manchester, Iowa, to Chicago, Ill.; and hides from Manchester, Iowa, to Detroit, Mich., Fond du Lac, Wis., Newark, N.J., and Waukegan, Ill. Thomas E. Leahy, Jr., 900 Hubbell Building, Des Moines, Iowa 50309, attorney for applicants.

No. MC-FC-74700. By order of October 9, 1973, the Motor Carrier Board approved the transfer to Howard Adelman and Naomi Adelman, d.b.a. Miller's Express, Brentwood, N.Y., of Certificates Nos. MC-15652 and MC-15652 (Sub-No. 2), issued to Hyman Miller, d.b.a. Miller's Express, Port Jervis, N.Y., authorizing the transportation of: Materials, supplies, and equipment for the manufacture of garments, cut cloth and garments, between specified points and areas in New York, New Jersey, and Pennsylvania. Martin Werner, attorney, 2 West 45th St., New York, N.Y. 10036, Herman B. J. Weckstein, attorney, 60 Park Pl., Newark, N.J. 07102.

No. MC-FC-74715. By order of October 5, 1973, the Motor Carrier Board approved the transfer to Parker's Express, Inc., Avon, Mass., of Certificate of Registration No. MC-129547 (Sub-No. 1), issued January 21, 1964, to JKL Trucking, Inc., Dorchester, Mass., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to the intrastate authority granted in Certificate No. 1006 by the Massachusetts Department of Public Utilities. Barrett and Barrett, attorneys at law, 60 Adams Street, Milton, Mass. 02187.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21915 Filed 10-12-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

GENERAL SERVICES PUBLIC ADVISORY COUNCIL AND THE NATIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the joint meeting of the General Services Public Advisory Council and the National Public Advisory Panel on Architectural and Engineering Services, October 19, 1973, at 10:00 a.m. in Room 6137, General Services Building, 18th and F Streets NW, Washington, D.C. The purpose of the meeting is to recommend to the Administrator of General Services membership and structure for a special study committee on the selection of architects and engineers. The meeting will be closed to the public in accordance with 5 U.S.C. 552(b) in order to protect the free exchange of internal views and to avoid undue interference with committee operations.

Dated at Washington, DC, on October 10, 1973.

ARTHUR F. SAMPSON, *Administrator.*

[FR Doc.73-22033 Filed 10-12-73;10:59 am]

SPECIAL STUDY COMMITTEE ON THE SELECTION OF ARCHITECTS AND ENGINEERS

Purpose and Functions

In accordance with the provisions of Public Law 93-463, Federal Advisory Committee Act, notice is hereby given that the General Services Administration Special Study Committee on the Selection of Architects and Engineers has been found to be in the public interest in connection with the performance of duties imposed on the General Services Administration by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The charter for the GSA Special Study Committee on the Selection of Architects and Engineers follows:

Designation. The Committee is the General Services Administration Special Study Committee on the Selection of Architects and Engineers.

Objectives and scope. The Committee will recommend a process to be used by GSA for the selection of architects and engineers to receive federal contracts. It shall study GSA's present system for selecting architectural and engineering firms, previous systems used by GSA, systems used by state and local governments and systems used in the private sector. It shall take into account the opinions of those experts in the field whose advice it considers of value. It shall have access to all GSA employees and all relevant records. It shall study at least the last eight years of GSA experience with the selection of architects and engineers.

Time necessary to carry out purpose. Eight months.

Official to whom committee reports. The Committee will report to the Administrator of General Services.

Office responsible for providing necessary support. Public Buildings Service, GSA.

Duties for which the Committee is responsible. The Committee will advise the Administrator of General Services on its recommendations for a process to be used to select firms to receive GSA architectural and engineering contracts.

Estimated annual operating cost and man-years. The estimated annual operating cost is $60,000 and total man-years required is 4 man-years.

Estimated number and frequency of meetings. Estimate of 8 monthly meetings.

Committee termination date. The Committee will terminate on June 30, 1974.

Filing date. October 10, 1973.

Dated: October 10, 1973.

ARTHUR F. SAMPSON,
Administrator.

[FR Doc.73-22067 Filed 10-12-73;10:59 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

REDUCED CHANNEL SPACING FOR ILS, VOR, AND TACAN (DME)

Notice of Policy Decision

On March 21, 1973, the Federal Aviation Administration (FAA) issued a Notice of Invitation for Comment in the FEDERAL REGISTER concerning planning for reduced channel spacing of ILS, VOR, and TACAN (DME) facilities in the National Airspace System (NAS).

The Notice of Invitation informed the public that increased requirements for air navigation facilities in the NAS cannot be met with the number of frequencies now available for assignment for very high frequency omnidirectional radio ranges (VOR), instrument landing systems (ILS), simplified directional facilities (SDF), and tactical navigation distance measuring (TACAN (DME)) facilities. In order to meet this insufficiency, the Notice advised of the FAA's intention to reduce radio channel spacing of these facilities (starting January 1, 1973) from present 100 kHz to 50 kHz spacing, thereby doubling the availability of assignable channels for VOR, ILS, and SDF. Initial application of this procedure was anticipated in highly congested frequency areas. Further, in conjunction with reduced channel spacing, the Notice advised of the concurrent suppression of certain harmonic radiation of adjacent-channel FAA VOR facilities in areas where 50 kHz channel spacing is implemented; and the frequency stabilization of all FAA VOR and ILS facilities to within 0.002 percent. In addition, it was indicated that the Department of Defense (DOD) would similarly modify their facilities and that concurrent action was underway to insure the compliance of non-Federal navigation facilities in this regard as well.

The public was further advised that locations where adjacent-channel interference would be encountered were to be identified in Flight Information Publications and that a six month advance notice would be given in the same publications when 50 kHz assignments (conversions) to existing 100 kHz facilities were planned.

A total of ten (10) comments were received in reply to the Notice of Invitation. The composite of the predominant views received consists of the following key points: frequency stabilization and subcarrier harmonic suppression of facilities should go forth as required to support split-channel implementation; the conversion of existing facilities at this time (after only six months notice) would act as a burden to users unequipped to receive the 50 kHz frequency; and use of Flight Information Publications to notify the public of planned conversions is an insufficient mechanism by itself.

In an effort to accommodate the above position taken by the aviation community without compromising future system requirements, the FAA will proceed with the following policy in this area:

In support of split-channel frequency assignments:

(1) All FAA ground navigation facilities will shortly receive frequency stabilization to 0.002 percent and certain FAA facilities will receive subcarrier harmonic suppression, as required.

(2) Similarly, all certified DOD ground navigation facilities within the National Airspace System (NAS) will shortly receive frequency stabilization to 0.002 percent and subsequent to January 1, 1975, certain DOD ground navigation facilities within the NAS will receive subcarrier harmonic suppression after 180 days notification by the FAA.

(3) In conjunction with the issuance of this Policy Decision and in accordance with the amendment of Parts 2 and 87 of the FCC regulations (47 CFR 2, 8; 38 FR 14106, May 29, 1973) FAA will require (through modification to FAR 171) the immediate frequency tightening of all non-Federal ground facilities (covered by FAR 171) to .002 percent, and the suppression of subcarrier harmonics of certain non-Federal ground facilities (covered by FAR 171) subsequent to January 1, 1975 and after 180 days notification by the FAA.

(4) FAA will continue to install new facilities (VOR/ILS/SDF/TACAN(DME)) at 100 kHz frequency assignments unless frequency congestion necessitates the use of a 50 kHz frequency assignment in which case the facility will be installed at 50 kHz.

(5) FAA will defer any notification of conversion of existing 100 kHz/X Channel facilities (to 50 kHz/Y Channel facilities) until January 1, 1975, at which time a twelve month notification period would begin on all such conversions. (The earliest conversion would, therefore, not take place prior to January 1, 1976.)

(6) In those cases where 50 kHz frequency assignments are necessary, either for new facilities or for conversion of existing 100 kHz assignments, terminal facilities will be considered first.

(7) The FEDERAL REGISTER as well as Flight Information Publications will be utilized as the forums for public notification on all facility conversions.

Issued in Washington, D.C., on October 3, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-21851 Filed 10-12-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RST-1, Waiver Petition No. 17]

PENN CENTRAL TRANSPORTATION CO.

Petition for Waiver of Certain Track Safety Standards; Public Hearings

On October 10, 1973, the Penn Central Transportation Company (Penn Central) filed with the Federal Railroad Administration (FRA) a petition requesting temporary waiver of the FRA Track Safety Standards for Track Geometry (49 CFR 213.51-63) and Crossties (49 CFR 213.109) with respect to 6,901 miles of track that do not meet the minimal requirements for Class 1 track through December 31, 1974. The maximum authorized speed on Class 1 track is 10 m.p.h. for freight trains and 15 m.p.h. for passenger trains. Penn Central also requests that it be granted interim relief pending decision of its petition for a temporary waiver. A summary description of the track involved is set forth in the appendix to this notice.

FRA issued these standards on October 15, 1971 (36 FR 20336) to become effective October 16, 1973.

Penn Central contends that it is presently unable as a result of a national tie shortage and a serious lack of funds to bring into compliance track which does not meet the minimum Class 1 standards for Track Geometry and Crossties, Penn Central further contends that all of the tracks in question perform a necessary function in Penn Central's present operations and that the overall effect of taking all of these tracks out

of service would be catastrophic to Penn Central's present operations. Penn Central asserts that in its present condition it is virtually powerless to prevent other track which now complies with Class 1 standards from falling out of compliance.

Section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c)) authorizes waiver of compliance from these standards, in whole or in part, after hearing, if the waiver is found to be in the public interest and consistent with safety.

Accordingly, an initial public hearing is hereby set for 10:00 a.m. on October 16, 1973, in Room 2230, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. The purpose of the initial hearing is to afford interested persons an opportunity to express their views as to whether and under what conditions Penn Central should be allowed to continue to operate over any or all of the substandard track involved pending additional hearings and subsequent decision on what relief if any should be granted with respect to the various segments of track encompassed within the petition.

The additional hearings will commence on October 23, 1973 at the same hour and place as the initial hearings. These hearings will afford interested persons an opportunity for oral presentation as to whether or not the petition should be granted. The purpose of these hearings will be to obtain information to assist the Federal Railroad Administrator in determining whether granting of the petition, in whole or in part, would be in the public interest and consistent with railroad safety. Specific information is requested with respect to the following:

1. The adverse effects which would result from a halting of rail operations on the track involved;

2. The nature and extent of hazards which would result from continued operation on the sub-standard track; and

3. Conditions necessary to obviate these hazards to maintain safety of operation.

The hearings will be informal, not judicial or evidentiary. There will be no cross-examination of persons making statements. A representative of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearings will be announced at the hearings.

Interested persons may also present written statements at the hearings. All statements will be made a part of the record of the hearings and be a matter of public record.

Interested persons are also invited to submit written data, views, or comments. Communications should identify the regulatory docket number and notice number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket No. RST-1, Waiver Petition No. 17, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before October 24, 1973 will be considered by the Federal Railroad Administrator before taking final action on this petition. The public docket including the petition and all comments received, will be available for examination by interested persons at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, Washington, D.C.

(Federal Railroad Safety Act of 1970, 84 Stat. 971 et seq.; 45 U.S.C. 421 et seq., 49 CFR 1.49(n))

Issued in Washington, D.C. on October 12, 1973.

JOHN W. INGRAM,
Administrator.

[FR Doc.73-22033 Filed 10-12-73;11:32 am]

CUMULATIVE LISTS OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

FEDERAL REGISTER PAGES AND DATE—OCTOBER

Pages	*Date*
27205–27272	Oct. 1
27273–27343	2
27345–27499	3
27501–27574	4
27575–27804	5
27805–27910	9
27911–28022	10
28023–28247	11
28249–28543	12
28545–28641	15

federal register

MONDAY, OCTOBER 15, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 198

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

OCEAN DUMPING

Final Regulations and Criteria

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER H—OCEAN DUMPING

TRANSPORTATION FOR DUMPING AND DUMPING OF MATERIAL INTO OCEAN WATERS

Pursuant to title I of the Marine Protection, Research, and Sanctuaries Act of 1972, Public Law 92–532, (hereinafter, "the Act"), the Environmental Protection Agency (EPA) published on April 5, 1973, interim regulations, effective immediately, describing procedures for application for, and issuance and denial of, permits for ocean dumping under the Act. Interim criteria for the evaluation of permit applications for ocean dumping under P.L. 92–532 were published May 16, 1973, as part of the interim regulations.

These criteria also satisfied the requirement of section 403(c) of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500, which require, under the heading of "Ocean Discharge Criteria," that EPA promulgate guidelines for determining the degradation of the waters of the territorial sea, the contiguous zone, and the oceans, in compliance with which permits under section 402 of P.L. 92–500 must be issued after promulgation.

The EPA is publishing herewith the final regulations describing procedures for application for, and issuance and denial of, permits for ocean dumping under the Act. Final criteria for the evaluation of permit applications for ocean dumping under the Act or for permits for ocean discharge of pollutants as required by section 403(c) of P.L. 92–500, are published as Part 227 of these regulations.

Public comment periods for the Regulations expired June 4, 1973, and for the Criteria June 23, 1973. The final regulations and criteria published herewith were revised from the interim criteria based on comments received from the general public and from marine scientists, and from EPA operating experience during the first five months of the program.

The following analysis summarizes comments received on the cited sections of the interim Regulations and Criteria and presents a rationale for the changes made. Sources of comments are referenced to Attachment A by the numeral in parentheses.

Section 220.1. There was a comment that "fish wastes", "territorial sea", "contiguous zone", and "ocean" should be defined (5). All of these terms except "fish wastes" are defined in the Act and are referenced in § 220.2. "Fish wastes" seems self-explanatory, so no changes were made in response to this comment.

A new § 220.1(a) has been added to clarify the relationship between these regulations and the International Ocean Dumping Convention (IODC). This merely points out that the basis for the control of ocean dumping under these regulations is the same as required by the IODC and lists the criteria of the IODC. This change was recommended by the Department of State for inclusion as soon as the Convention was ratified by the U.S.

This section has also been changed by the addition of a section on the placement of materials for enhancement of fisheries and the basis on which a permit will not be required under this Act. This change is made based on a comment received (5) and on discussions with other Federal agencies on how this matter could be most easily handled.

Section 220.3. Several comments were received on the categories of permits, with the general permit the subject of most concern. Environmental groups (7, 10) were concerned that detailed criteria for the issuance of general permits were not given and were concerned about the basis on which general permits would be issued. On the other hand, suggestions were made that the general permit could be used to allow the dumping of municipal sewage sludge (9), as an interim measure for all wastes (8), and for the dumping of materials such as fly ash (2).

Other comments were concerned with setting an outside time limit on permits of one year (2, 3, 4, 6). Because of the time required to obtain permits and the budgetary cycles of municipalities, periods ranging from two to five years were recommended.

There appeared to be a general confusion and misunderstanding of the manner in which EPA intended to use the general permit, and also some confusion about the overall relationship among general, special, interim special, and emergency permits (9, 2). The listing of permit categories was split among several sections of the interim Regulations and Criteria; to facilitate understanding, therefore, all the categories of permits and the general basis for issuance were consolidated into § 220.3 and more precise definitions were applied to remove the apparent basis of confusion. In summary the permit categories as revised are:

1. *General permits.* Requirement for a fixed expiration date was removed. Since this will be used only for such things as the dumping of galley waste and burial at sea, an expiration date is inappropriate.

2. *Special permits.* Only for wastes that meet the numerical criteria of §§ 227.22 and 227.3. The outside time limit is lengthened to three years.

3. *Emergency permits.* Language unchanged. Covers materials which do not meet § 227.22 (trace contaminants) and requires consultation with State for materials violating § 227.22.

4. *Interim permits.* These are a subset of "special permits" within the meaning of the Convention and are identified in these regulations as a separate category of permits to cover the dumping of materials which do not meet the numerical requirements of § 227.22 or § 227.3, but must be dumped at present because there is no feasible alternative. This would require an implementation plan (the time limit is keyed to the plan and may not exceed one year), and the permits are not renewable. A new permit may be issued on proof of satisfactory progress in implementation.

5. *Research permits.* This was also a subset of special permits. It is broken out separately to permit more flexible review not only by the public, but also by the scientific community to determine its merit on a continuing basis. Research permits would be granted only for 18 months, but could be renewed after review by EPA. This type of permit is needed to allow for research on ocean dumping, research which would be illegal without such a permit.

Section 220.4. The New York Conservation Department (5) feels that this delegation would allow EPA Regional Administrators to issue permits for dumping within New York territorial waters without the consent of New York. This is not the case; § 222.3(c) allows for State certification, and § 227.1(f) states that no permit will be issued which violates State water quality standards. The Section has been rewritten to clarify the nature and extent of the delegation to Regional Administrators based on this and other comments concerning conditions which may be imposed on permits and on administrative jurisdictional problems arising during the first months of the program.

The delegation of authority to the regions extends only to the issuance or denial of special and interim permits and review of Corps permits. General, emergency, and research permits are all retained in Headquarters primarily because of the national coordination required prior to their issuance.

Section 221.1. Comments were received (7, 10) stating that the alternatives to dumping must be clearly spelled out on the application. Sections 221.1(j) and 227.4 on requirements of implementation plans cover these requirements adequately. A comment was also received that municipal and industrial sludges should be treated differently and the requirements placed on municipal sludges should be less stringent as far as the information submitted is concerned (9). The composition of municipal sewage sludge can vary quite widely, and the same degree of care in its disposal is necessary as for industrial sludges. No changes were made in the text.

Sections 221.3 and 221.4. Comments were received concerning the permittee being able to warrant accuracy of the information furnished him by someone else (5, 9). The permittee can, as part of his contract with the supplier of the waste, hold him responsible for any false information given him; also, the applicant is required to certify to EPA that the information he provides on the application is correct, and a permit would be granted on the basis of that information. There seem to be adequate safeguards to protect the permittee who is not the applicant. No changes were made.

Section 221.5. The suggestion was made that there should be no exemptions from the processing fee (5). This was

rejected because it would involve additional administrative work in merely shifting tax dollars from one pocket to another. It was suggested that contractors working for a government agency be exempt from any fee (4). This can be accomplished by the government agency applying for the permit rather than the contractor without a change in language.

The processing fees have been increased because the original estimates of processing costs were too low.

Section 222.1. There was a comment that negative action or denial is anticipated as final action on permit applications (7). This is not the case; each permit application is to be evaluated fairly based on the criteria as stated in the regulations. The Act requires strict regulation of dumping, not prohibition.

Section 222.2. Several comments were received stating that the 10 day period to make a tentative determination on permit applications was too short (7, 10). The language has been changed to require notification of an applicant within 10 days as to whether his application is complete and to allow 30 days after a completed application for preparation of a tentative determination of action and publication of a public notice.

Other comments were received concerning the interim time limits (3, 6, 7, 10); this section no longer applies and has been deleted.

Section 222.3. One comment received said that States should certify not only for dumping in territorial waters but also in dumping which could affect their territorial waters (1); the language has been changed to include requesting certification for dumping within the contiguous zone, but denial of certification will be accepted only if the State can demonstrate its water quality standards in the territorial sea will be violated by dumping in the contiguous zone. Other comments dealt with including additional information with the public notice, such as an environmental impact statement, monitoring requirements, etc. (5, 7, 10). The public notice is a brief summary of the permit application and intended action, suitable for publication in a newspaper or posting in a public place. Inclusion of the detail suggested is not feasible in the public notice, but all documentation of the application will be available for public inspection as § 222.3(a) (4) states.

Section 222.4. Comments were received suggesting that there is an implied intent to approve permits in the regulations (7, 10); the language has been changed to correct any such impression. The question was also raised as to the basis on which States are expected to certify applications (5). The language has been changed to state that certification as to impact on water quality standards is required.

Section 222.5. This Section deals with the circumstances under which a public hearing may be called. Comments by environmental groups suggest that any time anyone requests a public hearing such a hearing must be held. The regulations merely state that anyone requesting a public hearing must state in writing what his objections are, and what issues are to be raised at such a hearing. These are reasonable requirements, and serve merely to screen out the irresponsible people who have no issues to raise, but just want to have a public forum for speechmaking which would not contribute to the basis for consideration of a permit application and would be done at the expense of the taxpayers.

Section 222.7. Comments were made on the necessity of making the entire permit application available to the public (7, 10). This is covered adequately in § 222.3 (a) (4).

Section 222.9. One comment was made on the "ominous" tone of the regulations (7). This relates to the findings of the presiding officer of the public hearing; the language explicitly states he must give full consideration to all views and arguments presented at the hearing and forward his recommendations to the appropriate authority. This seems quite adequate to serve the public interest, and the "ominous" nature of the regulations is not apparent.

Section 222.10. There was an objection to limiting consideration of permit applications to 180 days, apparently on the basis that this is too short a period for full examination and study in the "light of ecological criteria" (10). Six months seems quite adequate for full consideration by competent professionals of any permit application.

Section 223.1. This Section deals with the contents of permits; comments were received suggesting that the composition requirements on municipal sewage sludges were too exhaustive (9), and that monitoring requirements should be spelled out in some detail (7, 10). The regulations specifically state in this Section that a permit shall include such monitoring as the Administrator determines is feasible; additional detail is extraneous, since monitoring requirements must be imposed on a case-by-case basis.

Section 223.3. One comment states that the permit must be displayed on the vessel doing the dumping (10); the Act states that this must be done and suitable language has been explicitly included in § 223.1.

Section 224.1. This Section refers to the records to be kept by permittees. One comment stated that the information required should be obtained by EPA rather than individual sewerage authorities (7); the information required is that which a dumper would normally be expected to acquire in the course of carrying out the conditions of a permit. The dumper, of course, may not be the applicant; this seems to be the basis for the comment. A comment was made that the records should be submitted to EPA; this is required in § 224.2.

Section 224.2. Reports on emergency actions have been changed to a time limit of 10 days rather than 30 days in response to two comments (4, 5). Comments were also made that EPA should require reports more often than every six months (7, 10); the regulations specify other reporting requirements may be imposed. The six-months interval is a basic requirement, and other, more restrictive requirements may be imposed as the Administrator or his designee deems necessary.

Part 225. Two comments were received regarding the 15-day time limit for responding to notification by the Corps of Engineers of proposed action on dredged material permits (7, 10). This is not considered adequate for full consideration of a permit application by those commenting. If the tests specified in the criteria have been applied, this time is quite sufficient; if they have not been applied, the time is ample for pointing this out.

Part 226. One comment was received on to whom the penalties apply (9). It seems obvious from the law and from the regulations that whoever dumps illegally, or in violation of a permit issued to him is subject to the penalties under the law.

Part 227. These criteria are intended to apply both to P.L. 92-532 and to section 403(c) of P.L. 92-500. Comments were received indicating that this relationship is not apparent (24). Language has been introduced to include the statement "dumping or other discharge" where appropriate, instead of "dumping." The sections on Release Zone, § 227.72 and Mixing Zone, § 227.73, have also been modified appropriately.

Section 227.1. Comments were received stating that the overall thrust of the criteria was confusing (14, 24). A section has been introduced (§ 227.1(c)) to clarify the general basis on which permits may be granted. Other comments suggested relatively minor changes which were incorporated (19, 20, 21, 28). These were to insert in § 227.1(a) "in quantities" after "ocean waters of any material" and to change § 227.1(e) "because of" to "to prevent or minimize". Because of some doubt as to the scientific advisability of using locations off the continental shelf (37), the last sentence of § 227.1(h) was eliminated. One comment suggested incorporating the concept of elimination of ocean discharges by 1935 (24), a policy goal of P.L. 92-500, not P.L. 92-532.

Section 227.21. A comment by AEC (18) says that we should define radiological warfare agents. This term appears to be self-explanatory and is not defined either in the International Convention or in P.L. 92-532.

Section 227.22. Numerous comments were received on the prohibition of these materials except in trace concentrations (24, 19, 20, 21, 25, 26). The comments made on this section also relate to the definition of "trace" and those pertinent to this definition will be considered in the discussion under § 227.74. The burden of the comments was basically that this requirement is highly restrictive except for the exclusion in para-

graph (e). Comments by industry suggested that EPA, by using these limitations, could effectively eliminate all ocean dumping; comments by NRDC suggested that EPA might use this exclusion to permit a lot more ocean dumping. It was pointed out that the term "trace concentrations" does not follow the language of the Ocean Dumping Convention which uses the term "trace contaminants". This is true and the language has been changed from "wastes containing more than trace concentrations of the following materials" to "wastes containing the following materials as other than trace contaminants". A definition of trace contaminants and allowable levels for their discharge has been included in this section.

The City of Philadelphia (26) wanted organohalogens, mercury, and cadmium to be removed from this section and placed in § 227.31. This cannot be done because of the requirements imposed by the Ocean Dumping Convention.

Industrial representatives (19, 28) wanted the language of § 227.22(e) broadened; the present language reflects the usage of the International Ocean Dumping Convention and has not been changed.

Section 227.3. NRDC (24) says that EPA should define acceptable bioassay. A procedure for bioassay is being prepared and should be available by December 1; however, there seems to be little point in including the procedure in these regulations. The language of § 227.31(a) (2) was changed to show that the volume of the mixing zone is a factor in determining the limiting permissible concentration. Several industries (19, 21, 29) wanted a reference to titanium dioxide wastes in § 227.31(b) (3) eliminated. The list of processes given are those in which ocean dumping has been used in the past and which are the ones for which particular care must be taken. One industry (14) objects to the inclusion of oxygen consuming and/or biodegradable organic matter as a material requiring special care. Such materials if dumped in large quantities and concentrated in one place can cause extreme oxygen depletion with concomitant kills of biota. The AEC (18) wants the section on containment of radiological wastes eliminated; we feel that containment of radiological wastes is an important means of disposal and the section should be retained.

The AEC (18) wanted more specific language about containerization of radioactive wastes incorporated; the present language incorporates the approach they would like to use and no changes were made.

NRDC (24) wanted the terminology of § 227.33 changed by eliminating "single time and place"; making this change would completely change the meaning of the section, so no change was made. In § 227.34 NRDC (24) wanted "no permanent damage" to refer instead to 100 years. We think that the present language is far more comprehensive and can see no significance in making the suggested change.

NRDC also wants a definition for "environmentally innocuous materials" in § 227.35; the term appears self-explanatory and it is certain not subject to quantitative definition.

In § 227.36 the Corps of Engineers (11, 31) wanted the term dredged material removed and the State of Pennsylvania (30) wanted the term sewage sludge removed. The language was broadened to include any material.

Section 227.4. The American Petroleum Institute (6) says that the requirement that, in the exploration of alternatives to ocean dumping changes in plant processes be considered, means that the Administrator could insist that a company make a product in a particular way. This is not true; this is merely a requirement that all means possible for reducing or eliminating a waste material be explored. The only decision that EPA will make is whether or not to grant an ocean dumping permit and it is a reasonable requirement to ask a manufacturer to explore other ways of getting rid of the waste besides ocean dumping.

NRDC (24) wants implementation plans to be provided for all discharges which fall under the jurisdiction of the FWPCA. This would be a matter to be covered in permits granted under the NPDES rather than under P.L. 92-532. This section merely establishes the criteria upon which an acceptable implementation plan will be judged in evaluating a permit application, not whether an implementation plan will be required.

AEC (18) wants a requirement for best practicable technology and best available technology to be eliminated. This matter is a point of EPA policy and the change is not made.

Section 227.5. NRDC (24) says that EPA cannot guarantee the nontoxicity of all other materials not specified in §§ 227.22 and 227.31. The referenced sections are written so as to include practically all waste materials which are likely to contain toxic materials. A permit must still be granted for materials regulated under § 227.5; these sections just categorize some materials for which less extensive testing may be required than the materials listed in §§ 227.22 and 227.31.

Section 227.6. One industrial corporation (15) objected to the latitude being given in making decisions on disposal of dredged spoil. NRDC also objects to the discretionary language in the disposal of dredged spoil. This particular section was developed after considerable negotiation between EPA and the Corps of Engineers. It is recognized that the test procedure described in § 227.61(c) has limited applicability. The present test as specified is an interim indicator of short-term effects to determine whether dredged spoil is polluted. Upon completion of research now underway by the Corps of Engineers (June 1974), modifications to this test may be proposed.

Section 227.71. Several comments were received about the definition of limiting permissible concentrations. Most of the comments dealt with choice of an application factor (24, 14, 18, 6, 19, 20, 25, 28, 29). NRDC stated we must provide justification for an application factor of 0.01. Various industries' comments suggested values of 0.5, 0.1, and at the discretion of the Regional Administrator. The application factor of 0.01 was recommended by the National Technical Advisory Committee on Water Quality Criteria as a conservative factor to use in cases where a waste of unknown ecological impact is involved. This factor is also used by the British Government in the regulation of ocean dumping around the British Isles. A number of scientists have been asked to comment on the bioassay procedure. All have commented upon the difficulty of running bioassays involving marine specimens, but none has suggested that another application factor would be preferable. We feel that the 0.01 factor represents a sound conservative approach toward interpretation of the bioassay results and their application in the environment and that this approach is based upon the best available scientific knowledge and experience.

Sections 227.72 and 227.73. The language has been changed in these sections to state explicitly how these definitions apply for disposal through an outfall or other structure.

Section 227.74. The definition of trace concentrations was the subject of considerable comment by industrial representatives. Several modifications to the definition in the interim criteria were suggested (3, 8, 14, 19, 21, 28, 29), and a new definition incorporating some of the suggestions has been developed and incorporated into § 227.22. Section 227.74 has been eliminated as unnecessary.

List of approved interim dump sites. Numerous questions were raised on the selection and use of dump sites; The modifications required in response to these questions will require substantive changes in the list and the addition of a new section to these regulations. This addition will be published as proposed rulemaking for additional public comment before being promulgated as part of the final regulations. Until then, no changes will be made in the list of approved dump sites.

These regulations and criteria will be revised periodically to reflect additional public comment, additional operating experience, and advances in scientific understanding of the impact of pollutants on the marine environment, and the recommendations of international scientific bodies on contaminant concentrations permissible in the oceans.

Comments on these regulations and criteria will be considered in all future revisions. Comments should be addressed to Office of Air and Water Programs, Environmental Protection Agency, Attention: Mr. T. A. Wastler, Room 735, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter was ratified by the U.S. Senate on Au-

gust 3, 1973. These regulations and criteria form the basis for the operating program to enforce the Convention when it comes into force after ratification by fifteen nations. They will be modified to be fully consistent with the Convention when it comes into force for the United States.

All applications for ocean dumping permits received after October 15, 1973, will be processed in accordance with these final regulations. All permits granted under the interim regulations, and which expire prior to February 13, 1974, are hereby extended until February 13, 1974; all other permits will expire as stated in the permit, except that all permits issued under the interim regulations will expire no later than April 15, 1974.

Dated October 2, 1973.

JOHN QUARLES,
Acting Administrator.

LIST OF COMMENTS ON OCEAN DISPOSAL CRITERIA

1. State Senate, Commonwealth of Massachusetts.
2. Consolidated Edison Company of New York, Inc.
3. Manufacturing Chemists Association, Washington, D.C.
4. Office of Legislation, EPA.
5. State of New York Department of Environmental Conservation.
6. American Petroleum Institute.
7. Williams College, Williamstown, Massachusetts.
8. E. I. DuPont de Nemours & Company, Wilmington, Delaware.
9. Passaic Valley Sewerage Commissioners, Newark, New Jersey.
10. Natural Resources Defense Council, Inc., Washington, D.C.
11. Department of the Army, Office of the Chief of Engineers.
12. City of New York Environmental Protection Administration.
13. Department of the Interior.
14. Mobil Oil Corporation, New York, New York.
15. California Marine Affairs and Navigation Conference, San Francisco, California.
16. New York State Department of Environmental Conservation, Albany, New York.
17. State of Hawaii Department of Transportation, Honolulu, Hawaii.
18. Atomic Energy Commission.
19. Manufacturing Chemists Association, Washington, D.C.
20. American Cyanamid Company, Wayne, New Jersey.
21. NL Industries, Inc., New York, New York.
22. Shell Oil Company, Houston, Texas.
23. State of California Resources Agency, Department of Fish and Game, Sacramento, California.
24. Natural Resources Defense Council, Inc., Washington, D.C.
25. The Chlorine Institute, Inc., New York, New York.
26. City of Philadelphia Water Department.
27. Dr. Wallace W. Harvey, Jr., Memorial Clinic, Manteo, North Carolina.
28. Rohm and Haas Company, Philadelphia, Pennsylvania.
29. E. I. DuPont de Nemours & Company, Wilmington, Delaware.
30. Commonwealth of Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania.
31. U.S. Army Corps of Engineers.
32. Massachusetts Institute of Technology, Cambridge, Massachusetts.
33. The Commonwealth of Massachusetts Water Resources Commission, Boston, Massachusetts.
34. Department of the Interior Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife.
35. Fulligant, Doremus & Karsman, Savannah, Georgia.
36. Betz Laboratories, Inc., Trevose, Pennsylvania.
37. Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

Chapter I of Title 40 is amended by replacing as final regulations Subchapter H, Ocean Dumping, as follows:

SUBCHAPTER H—OCEAN DUMPING

Part

PART 220—GENERAL

Sec.

AUTHORITY: Title I, Pub. L. 92-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 220.1 Purpose and scope.

(a) *Relationship to international agreements.* The Act is the enabling domestic legislation for enforcement of U.S. commitments made by ratification of the "Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter." The regulations and criteria included in this Subchapter are based on the provisions specified in the Convention to be considered in the development of criteria governing the issuance of permits for the dumping of matter at sea.

(b) *General.* This Part establishes procedures for the issuance of permits by EPA pursuant to section 102 of the Act. Subject to the exclusions in subsection (c), the Act prohibits:

(1) Transportation from the United States of radiological, chemical, or biological warfare agents, or of any high-level radioactive wastes, for the purpose of dumping them into ocean waters, and the dumping of any such materials into the territorial sea, or into the contiguous zone (to the extent it may affect the territorial sea or the territory of the United States);

(2) Transportation from the United States of material not specified in paragraph (b)(1) of this section for the purpose of dumping it into ocean waters, and the dumping of any such material into the territorial sea, or into the contiguous zone (to the extent it may affect the territorial sea or the territory of the United States), without a permit from EPA; or, in the case of dredged material, from the Corps of Engineers.

(3) Transportation from any location outside the United States, of materials specified in paragraph (1), for the purpose of dumping them into ocean waters, by any officer, employee, agent, department, agency, or instrumentality of the United States.

(4) Transportation of any material not specified in paragraph (b)(1) of this section from any location outside the United States, for the purpose of dumping it into ocean waters, by any officer, employee, agent, department, agency or instrumentality of the United States, without a permit from EPA; or, in the case of dredged material, from the Corps of Engineers.

(c) *Exclusions.* (1) This part does not apply to the transportation and dumping of fish wastes unless such dumping occurs in:

(i) Harbors or enclosed coastal waters; or

(ii) Any other location where the Administrator finds that such dumping could endanger health, the environment or ecological systems in a specific location; provided, that nothing herein shall be construed as requiring a permit under the Act for the dumping of fish wastes in areas inside the base line from which the territorial sea is measured as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(2) This part does not apply to the placement or deposit of materials for the purpose of enhancing fisheries; provided, such placement or deposit is certified to EPA to be part of an authorized State or Federal program by the agency authorized to administer the program; and provided further, that the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the U.S. Army Corps of Engineers concur in such placement or deposit as it may affect their responsibilities under the Act. For the placement or deposit of materials for enhancement of fisheries, letters of concurrence from these agencies are acceptable in lieu of an application for permit for dumping.

§ 220.2 Definitions.

As used in this part, the term "Act" means the Marine Protection, Research and Sanctuaries Act of 1972, Public Law 92-532, 33 U.S.C. Unless otherwise provided herein, all other terms shall have the meanings assigned to them by the Act.

§ 220.3 Categories of permits.

(a) *General permits.* From time to time the Administrator may authorize, by general permit, the dumping of certain materials, such as galley waste from ships or other non-toxic materials generally disposed of in small quantities. Such general permits shall be published in the FEDERAL REGISTER and shall specify the types and amounts of materials which may be dumped, the designated dumping sites for such dumping activities, and any other conditions deemed appropriate by the Administrator. A general permit may be granted by the

Administrator under this section on application of an interested person in accordance with the procedures of Part 221, or may be granted by the Administrator on his own initiative, subject to the notice and hearing requirements of Part 222 of this subchapter.

(b) *Special permits.* The dumping of material requiring an EPA permit under the Act, and not covered by a general permit published in the FEDERAL REGISTER under paragraph (a) of this section, will require a special permit issued to a specified applicant, having a fixed expiration date, (which shall be no later than three years from the date of issue) and specifying the exact amount of material permitted to be dumped thereunder. Special permits will be granted only on application in accordance with the requirements of Part 221 of this subchapter. No special permit shall be granted for any material which does not meet the criteria of §§ 227.22 and 227.31 of this subchapter. Special permits may be renewed upon application at the discretion of the Administrator or his designee.

(c) *Emergency permits.* After consultation with the Department of State and with such other persons as may be appropriate, the Administrator may issue an emergency permit to dump materials specified in § 227.22 of this subchapter where there is demonstrated to exist an emergency requiring the dumping of such material, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, "emergency" refers to situations requiring action with a marked degree of urgency, but is not limited in its application to circumstances requiring immediate action.

(d) *Interim permits.* It is the intent of this program to prevent or strictly regulate the disposal to the marine environment of any materials damaging to that environment. The quantitative basis for determining limiting concentrations and quantities of known toxic or otherwise damaging materials which can be dumped without measurable damage, based on existing knowledge, is given in §§ 227.22 and 227.31 of this subchapter. When an applicant wishes to dump any of the materials listed in § 227.31 of this subchapter in excess of the limiting permissible concentrations, or when the constituents identified in § 227.22 of this subchapter are present as trace contaminants as defined in § 227.22(e) of this subchapter but are in excess of the levels at which they may be dumped under special permit, he may, under certain conditions, be granted an interim permit at the discretion of the Administrator or his designee. These conditions are:

(1) An environmental assessment of the potential environmental impact of the dumping will be required as part of each application and, in addition, a thorough review of the actual need for the dumping and possible alternatives will be made in evaluating the permit application. The decision on whether or not to grant an interim permit will be based, in part, on consideration of the following factors relative to the need for and alternatives to dumping:

(i) Degree of treatment feasible for the waste to be dumped, and whether or not the waste material has been or will be treated to this degree before dumping.

(ii) Manufacturing or other processes resulting in the waste, and whether or not these processes are essential, or if other less polluting processes could be used.

(iii) The relative environmental impact and cost for ocean dumping as opposed to other possible alternatives, for example land disposal or deep well injection, after the best practical waste treatment has been carried out.

(iv) Temporary and/or permanent effect of the dumping on alternative uses of the oceans, such as navigation, living resources exploitation, nonliving resource exploitation, scientific study, and other legitimate uses of the oceans, as opposed to the impact on other parts of the environment of alternate means of disposal.

(2) An interim permit will require the development and active implementation of a plan to either eliminate the discharge entirely from the ocean or to bring it within the limitations of § 227.3 of this subchapter. Such plans must meet the requirements of § 227.4 of this subchapter. The expiration date of an interim permit will be determined by completion of sequential phases of the development and implementation of the required plan, and will not exceed one year from the date of issue. An interim permit may not be renewed, but a new interim permit may be issued upon application according to Part 221 of this subchapter upon satisfactory completion of each phase of the development and implementation of the plan.

(3) No interim permit will be granted for the dumping of waste from a new facility or from the expansion of a facility after the effective date of these regulations without the completion of Phase A of an implementation plan.

(e) *Research permits.* A permit for the dumping of materials (other than those prescribed in §§ 227.21 and 227.22 of this subchapter) into the ocean as part of research into the impact of materials on the marine environment may be issued by the Administrator when he determines the scientific merit of the proposed project outweighs the potential damage that may occur from the dumping. A research permit will be issued only under the following conditions:

(1) The applicant provides to the Administrator a detailed statement of the proposed project, including an assessment of the probable environmental impact of carrying out the project.

(2) There is public notice and opportunity for public hearing.

(3) Research permits will be issued for no longer than 18 months, but may be renewed after review by the Administrator.

§ 220.4 Delegation of authority.

(a) *Special and interim permits.* Subject to the exclusion of paragraph (b) of this section, Regional Administrators or their designees have the authority to initiate and carry out enforcement proceedings and to issue, deny, and to impose conditions on special and interim permits for:

(1) The dumping of material in that portion of the territorial sea which is subject to the jurisdiction of any State within their respective regions, and in those portions of the contiguous zone coterminous with such parts of the territorial sea;

(2) The dumping of any material within any other dump site, or other designated area explicitly assigned as a regional management responsibility by these regulations, amendments to them, or by order of the Administrator.

(3) The transportation for dumping of any material from a location in a State in their respective regions and its dumping at a designated site, except to the extent a different Regional Administrator has such authority by virtue of paragraph (a) (1) or (2) of this section.

(b) *Exclusions.* (1) Where transportation for dumping is to initiate in one region and dumping is to occur in another region, the former region will be responsible for review of the application and prepare the technical evaluation of the need for dumping and alternatives to ocean disposal. The latter region will specify the conditions to be imposed, give public notice, and issue or deny the permit. If both regions do not concur in the disposition of the permit application, the Administrator will make the final decision on issuance or denial of a permit and on the conditions to be imposed.

(2) All activities involving monitoring of the disposal site shall be approved by the Administrator.

(c) *Other permits.* In all cases not described in paragraph (a) or (b) of this section, the Administrator, or such other EPA employee as he may from time to time designate in writing, shall issue, deny or impose conditions on special, interim, general, emergency, or research permits issued pursuant to the Act.

(d) *Designation of new disposal sites.* Disposal sites will be designated by publication in the FEDERAL REGISTER in this subchapter. Recommendations for designation will be based on baseline studies and monitoring of sites, and will be approved by the Administrator prior to designation.

(e) *Corps of Engineers permits.* Authority to review and approve or disapprove Corps of Engineers permits for ocean disposal of dredged material is granted to each Regional Administrator for those dredged material dumping sites within their regional jurisdiction.

PART 221—APPLICATIONS

AUTHORITY: Title I, Pub. L. 96-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 221.1 Application forms for special permits.

Applications for EPA special or interim permits under the Act may be filed with the Administrator or the Regional Administrator, if any, authorized by § 220.4 to act on the application. Unless and until printed application forms are made available, an application may be made by letter. Any application for a permit under this subchapter will include at a minimum:

(a) Name and address of applicant;

(b) Name of the person or firm (if not the applicant), and the name or other identification and usual location of the conveyance, to be used in the transportation and dumping of the material involved;

(c) Physical and chemical description of material to be dumped, including results of tests necessary to meet the requirements of Part 227 of this subchapter, and the number, size, and physical configuration of the materials and any containers to be dumped;

(d) Quantity of material to be dumped;

(e) Means of conveyance and anticipated dates and times of disposal;

(f) Proposed dump site; and in the event such proposed dumping site is not a designated dumping site designated in this subchapter, detailed physical information on the nature of the proposed dump site;

(g) Proposed method of disposal at the dump site;

(h) Identification of the specific process or activity giving rise to the production of the material;

(i) Information on the manner in which the type of material in question has been previously disposed of by or on behalf of the applicant;

(j) A description of available alternative means of disposal of the material, with explanations of why each of such alternatives is thought by the applicant to be inappropriate.

§ 221.2 Other information.

In the event the Administrator, Regional Administrator, or a person designated by either to review permit applications, determines that additional information is needed in order to apply the criteria set forth in Part 227 of this subchapter, he shall so advise the applicant in writing. For purposes of applying the time limitation of § 222.1, an application will not be considered complete until all additional information requested pursuant to this section is received, and all such information shall be deemed part of the application.

§ 221.3 Applicant.

Any person may apply for a permit under this Part, even though the proposed dumping may be carried on by a permittee who is not the applicant. However, issuance of a permit will not excuse the permittee from any civil or criminal liability which may attach by virtue of his having transported or dumped materials in violation of the terms or conditions of a permit, notwithstanding that the permittee may not have been the applicant.

§ 221.4 Adequacy of information.

No permit issued under this Part will be valid for the transportation or dumping of any material which is not accurately and fully described in the application. No permittee shall be relieved of any liability which may arise as a result of the transportation or dumping of material which does not conform to information provided in the application solely by virtue of the fact that such information was furnished by an applicant other than the permittee.

§ 221.5 Processing fees.

(a) A processing fee of $1,000 will be charge in connection with each application for a permit for dumping in an existing dump site designated in this subchapter.

(b) A processing fee of an additional $3,000 will be charged in connection with each application for a permit involving the use of a dump site other than a designated dump site.

(c) A processing fee of $700 will be charged in connection with each application for renewal of a permit.

(d) Notwithstanding the foregoing, no agency or instrumentality of the United States or of a State or local government will be required to pay the processing fees specified in paragraphs (a), (b), and (c) of this section.

PART 222—ACTIONS ON APPLICATIONS

Sec.

AUTHORITY: Title I, Pub. L. 92-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 222.1 General.

Decisions as to the issuance, denial, or imposition of conditions on a permit issued by EPA pursuant to this Part will be made in the light of the factors set forth in section 102(a) of the Act and after issuance of criteria pursuant thereto, in the light of such criteria. In all cases, final action on any application for a special permit, or renewal thereof, will be taken by EPA within 180 days from: (1) The date the application is filed, or, (2) in the event the application is deficient, from the date on which the applicant provides all requisite information, whichever is later, provided, that if a hearing is convened pursuant to Part 222 of this subchapter, such 180 day limit to grant a permit will be extended by the time required for such hearing.

§ 222.2 Tentative determinations.

An applicant shall be informed within 30 days whether or not his application is complete and what additional information is required. Within 30 days after receipt of a completed permit application, EPA shall publish a public notice including a tentative determination with respect to issuance or denial of the permit applied for. If such tentative determination is to issue the permit, the following additional tentative determinations will be made:

(a) Proposed time limitations, if any;

(b) Proposed dumping site; and

(c) A brief description of any other proposed special conditions determined to be appropriate for inclusion in the permit in question.

§ 222.3 Notice of applications.

(a) *Contents.* Public notice of every complete permit application received shall be circulated to inform the public. Each such public notice shall include at least the following:

(1) A summary of the information included in the permit application;

(2) Any tentative determinations made pursuant to § 222.2;

(3) A brief description of the procedures set forth in § 222.5 for requesting a public hearing on the proposed dumping; and

(4) The location at which interested persons may obtain further information on the proposed dumping, including copies of any relevant documents.

(b) *Publication.* (1) Notice given pursuant to paragraph (a) of this section shall be circulated within the geographical area of any port through or from which material is proposed to be transported for dumping in the territorial sea, as follows:

(i) Published in at least one daily newspaper, or, if there is none, in a newspaper of general circulation in such port;

(ii) Posted in the post office in such port;

(iii) Published in a daily newspaper in the city in which the office with authority to issue the permit is located.

(2) Notice shall be mailed to any person, group, or State or Federal Agency upon request. Any such request may be a standing request for notice of all permit applications received by EPA, or of any class of such permit applications.

(c) *Notice to States.* In addition to the public notice required by § 222.3(a), notice of each application for dumping, including all the material required to be included in a public notice, will be mailed to the State water pollution control agency for the State, if any, contiguous to that portion of the territorial sea, if any, within which proposed dumping will occur or which might be affected by dumping within the contiguous zone coterminous to its territorial sea. Certification under section 401 of the Federal Water Pollution Control Act is not required in connection with applications for dumping outside the territorial sea

unless the State can demonstrate that dumping in the contiguous zone will violate water quality standards within the part of the territorial sea under its jurisdiction.

(d) *Notice to Corps of Engineers.* In addition to other notice required by this section, notice of each application for dumping will be forwarded to the appropriate office of the U.S. Army Corps of Engineers for review in accordance with section 106(c) of the Act (pertaining to navigation, harbor approaches, and artificial islands on the outer continental shelf). Unless advice to the contrary is received within 30 days of the date such notice is transmitted to the identified agencies by the Administrator, Regional Administrator or their designees, these agencies will be deemed to have no objection on account of matters required to be considered pursuant to section 106 (c) of the Act.

(e) *Notice to Coast Guard.* In addition to other notice required by this section, notice of each application for dumping will be forwarded to the appropriate district office of the U.S. Coast Guard for review in accordance with section 104(a) (5) of the Act.

(f) *Fish and Wildlife Coordination Act.* The Fish and Wildlife Coordination Act, Reorganization Plan No. 4 of 1970, and P.L. 92-532 require Regional Administrators to consult with appropriate regional officials of the Departments of Commerce and Interior, the Regional Director of the NMFS-NOAA, the agency exercising administrative jurisdiction over the fish and wildlife resources of the State subject to any dumping. Unless advice to the contrary is received within 30 days of the date such notice is transmitted to the identified agencies by the Administrator, Regional Administrator or their designees, these agencies will be deemed to have no objection on account of matters required to be considered pursuant to section 106(c) of the Act.

§ 222.4 Issuance or denial of permits without hearing.

(a) *General.* Subject to the receipt of certification, if required, pursuant to section 401 of the Federal Water Pollution Control Act, from any State to which notice has been sent pursuant to § 222.3 (c), the Administrator, Regional Administrator or their designees will issue or deny permits in accordance with § 222.1, as soon as all provisions of § 222.3(a) (pertaining to public notice) have been complied with, unless a request for a public hearing has been granted pursuant to § 222.5(b), or unless objection is received from the Corps of Engineers pursuant to § 222.3(d).

(b) *Waiver of State certification.* State certification as to the probable impact of the proposed dump on State water quality standards pursuant to section 401 of the Federal Water Pollution Control Act will be deemed waived, in accordance with the terms thereof, if such certification is not received within 60 days of notice to the appropriate State agency under § 222.3(c), or such longer period to which the Administrator, Regional Administrator or their designees, may agree.

§ 222.5 Initiation of hearings.

(a) Any person may, within 30 days of the date on which all provisions of § 222.3(b) have been complied with, request a public hearing to consider the issuance or denial of any permit applied for under this Part. Any such request for a public hearing must be in writing, and must state any objections to the issuance or denial of the proposed permit, and the issues which are proposed to be considered at the hearing.

(b) Upon receipt of a written request meeting the requirements of paragraph (a) of this section, or at his own discretion, the Administrator, Regional Administrator or a designee of either, will fix a time and place for a public hearing, and shall publish notice of such hearing in accordance with § 222.7, whenever such request presents bona fide issues amenable to resolution by public hearing.

(c) In the event the Administrator, Regional Administrator or a designee of either, determines that a request purportedly made pursuant to this section does not comply with the requirements of paragraph (a) of this section, he shall so advise, in writing, the person requesting the hearing, and shall proceed to rule on the permit application in accordance with § 222.4(a).

§ 222.6 Time and place of hearings.

When the Administrator or Regional Administrator grants a request for a public hearing pursuant to § 222.5(a), he shall designate an appropriate location for such hearings, and an appropriate time which shall be no sooner than 30 days following the receipt of such request. Where possible, public hearings shall be held in a location in the States, if any, to which notice of the permit application was given pursuant to § 222.3 (c).

§ 222.7 Notice of hearings.

Notice of public hearings, including information as to their time and place, shall be given, at a minimum, to persons to whom, and in the manner in which, notice of the permit application was published pursuant to § 222.3.

§ 222.8 Conduct of hearings.

The Administrator or Regional Administrator may designate a presiding officer to conduct a hearing convened pursuant to this part. The presiding officer shall be responsible for the expeditious conduct of the hearing, and shall cause a suitable record (including, if appropriate, a verbatim transcript) of the proceedings to be made. Any person may appear at a hearing convened pursuant to this Part whether or not he requested the hearing, and may be represented by counsel or any other authorized representative. The presiding officer is authorized to set forth reasonable restrictions on the nature or amount of documentary material or testimony presented at a hearing, giving due regard to the relevancy of any such information, and to the avoidance of undue repetitiveness of information presented. No cross-examination of any person, including the applicant, appearing at a hearing shall be permitted, although the presiding officer, may, in his discretion, address to persons or their authorized representatives questions submitted in writing by participants at a hearing.

§ 222.9 Recommendations of presiding officer.

At any time following the adjournment of a public hearing convened pursuant to this part, the presiding officer may prepare written recommendations relating to the issuance or denial of the proposed permit, or relating to any conditions which he believes may appropriately be imposed on any such permit, after full consideration of the views and arguments expressed at the hearing: provided, that the presiding officer's findings and recommendations, if any, and the record of the hearing, will in all cases be completed and forwarded to the Administrator, Regional Administrator, or their designated representatives within 30 days following adjournment of the hearing. Copies of the presiding officer's findings and recommendations, if any, shall be provided to any interested person on request, free of charge. Copies of the record will be provided in accordance with § 2.111 of this title.

§ 222.10 Issuance of permits after hearings.

Within 30 days following receipt of the presiding officer's findings and recommendations, if any, but in no event later than 180 days from the time limit specified in § 222.1. The Administrator, Regional Administrator, or their designees, shall make a final determination with respect to the issuance, denial, or imposition of conditions on, any permit applied for under this part.

PART 223—CONTENTS OF PERMITS

Sec.
223.1 Contents of permits.
223.2 Generally applicable conditions of permits.

AUTHORITY: Title I, Pub. L. 92-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 223.1 Contents of permits.

Permits, other than general permits, which may be issued on forms to be published by EPA and must be displayed on the vessel engaged in dumping, will include at a minimum the following:

(a) Name of permittee;

(b) Means of conveyance and methods and procedures for disposal of material to be dumped; and, in the case of permits for the transportation of material for dumping, the port through or from which such material will be transported;

(c) A complete description, including all relevant chemical and physical properties and quantities, of the material to be dumped;

(d) The disposal site;

(e) The times at which the permitted dumping may occur;

(f) Such monitoring relevant to the assessment of the impact of permitted dumping activities on the marine environment at the disposal site as the Administrator determines is feasible; and

(g) Any other terms and conditions, including those with respect to release procedures, determined to be necessary and adequate in order to conform the permitted dumping activities to the factors set forth in section 102(a) of the Act, and the criteria set forth in Part 227.

§ 223.2 Generally applicable conditions of permits.

(a) *Modification or revocation.* Any permit issued under this Part shall be subject to modification, or revocation in whole or in part for cause, as follows:

(1) Violation of any term or condition of the permit;

(2) Misrepresentation, inaccuracy, or failure to disclose all relevant facts in the permit application;

(3) Changed circumstances, such as changes in conditions obtaining at the designated dumping site, and newly discovered scientific data relevant to the granting of the permit;

(4) Failure to keep the records, and to notify appropriate officials of dumping activities, as specified in §§ 224.1 and 224.2.

(b) *Suspension.* In addition to the conditions of a permit imposed pursuant to paragraph (a) of this section, each permit shall be subject to suspension by the Administrator or Regional Administrator if he determines that the permitted dumping has resulted, or is resulting, in imminent and substantial harm to human health or welfare or the marine environment. Such suspension shall be effective immediately upon receipt of notification thereof by the permittee.

(c) *Hearings.* Within 30 days after receipt of notice of revocation or modification pursuant to paragraph (a) of this section, or of suspension pursuant to paragraph (b) of this section, a permittee or other interested person may request in writing a hearing on the issues raised by any such revocation or suspension. Upon receipt of any such request, the Administrator or Regional Administrator shall appoint a hearing officer to conduct an adjudicatory hearing as may be required by law and by this subchapter as now or hereafter in effect.

PART 224—RECORDS

Sec.
224.1 Records of permittees.
224.2 Reports.

AUTHORITY: Title I, Pub. L. 92-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 224.1 Records of permittees.

Each permittee and each person availing himself of the privilege conferred by a general permit, shall maintain complete records, which will be available for inspection by the Administrator, Regional Administrator, the Commandant, U.S. Coast Guard, or their designees, of:

(a) The nature, including a complete description of relevant physical and chemical characteristics, of material dumped pursuant to the permit;

(b) The precise times and locations of dumping;

(c) Any other information reasonably required as a condition of a permit by the Administrator, Regional Administrator or their designees:

(1) For the purpose of determining whether dumping has in fact been accomplished in accordance with all terms and conditions of the permit;

(2) To assess the impact of permitted dumping activities on the marine environment.

§ 224.2 Reports.

(a) *Periodic reports.* Information included in records required to be kept pursuant to § 224.1 shall be reported to the EPA official who issued the permit in question, as follows:

(1) As of the end of each six-month period, if any, measured from the effective date of the permit and ending before its expiration;

(2) As of the expiration of the permit, unless renewed; and

(3) As otherwise required in the conditions of the permit.

(b) *Time of reporting.* Reports required by this section must be received by EPA within 30 days of the date as of which the information is required to be reported; provided, that if an application for renewal of a special permit is pending at such time, the report required by paragraph (a)(2) of this section may be deferred until 30 days after the date of a denial of the renewal application.

(c) *Emergencies.* If material, the dumping of which is regulated under this subchapter, is dumped without a permit in an emergency to safeguard life at sea, the owner or operator of the vessel from which such dumping occurs shall as soon as feasible inform the Administrator or the nearest Coast Guard district of the incident by radio, telephone, or telegraph and shall within 10 days report to the Administrator the information required under § 224.1, and a complete description of the emergency which occasioned the dumping.

PART 225—CORPS OF ENGINEERS PERMITS

Sec.
225.1 General.
225.2 Review of Corps permit applications.
225.3 Waivers.

AUTHORITY: Title C, Pub. L. 96-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 225.1 General.

As indicated in § 220.1, the U.S. Army Corps of Engineers has the authority to issue permits for the transportation and dumping of dredged material. As defined in the Act, "dredged material" means "any material excavated or dredged from the navigable waters of the United States." EPA personnel will not act initially on any application received for the transportation or dumping of dredged material, but will forthwith forward any such application to the appropriate office of the Corps, which will, in acting on any such application, apply the criteria in Part 227 of this subchapter.

§ 225.2 Review of Corps permit applications.

Within 30 days following receipt of notification, pursuant to section 103(c) of the Act, the Administrator, Regional Administrator or the designee of either, will notify in writing the Corps of his disagreement, if any, to the issuance of the permit in question, on the grounds that it would not be in accordance with the criteria of Part 227 of this subchapter, or would violate section 102(c) of the Act (pertaining to critical areas).

§ 225.3 Waivers.

If, after notice of disagreement is given the Corps pursuant to § 225.2, a request for a waiver is received pursuant to section 103(d) of the Act, such request will be forwarded to the Administrator; provided, that if any such request does not include the finding required by section 103(d) of the Act as to economically feasible methods of disposal, and the basis for such finding, the request will be denied. The Administrator will act on the request for a waiver in accordance with section 103(d) of the Act, within 30 days of receipt thereof by EPA.

PART 226—ENFORCEMENT

Sec.
226.1 Civil penalties.
226.2 Enforcement hearings.
226.3 Determinations.
226.4 Final action.

AUTHORITY: Title I, Pub. L. 92-532, 86 Stat. 1052 (33 U.S.C. 1411-1421).

§ 226.1 Civil penalties.

In addition to the criminal penalties provided for in section 105(b) of the Act, the Administrator or his designee may assess a civil penalty of not more than $50,000 for each violation of the Act and of this subchapter. Upon receipt of information that any person has violated any provision of the Act or of this subchapter, the Administrator of his designee will notify such person in writing of the violation with which he is charged, and will convene a hearing to be convened no sooner than 60 days after such notice, at a convenient location, before a hearing officer. Such hearing shall be conducted in accordance with the procedures of § 226.2.

§ 226.2 Enforcement hearings.

Hearings convened pursuant to § 226.1 shall be hearings on a record before a hearing officer. Parties may be represented by counsel, and will have the right to submit motions, to present evidence in their own behalf, to cross-examine adverse witnesses, to be apprised of all evidence considered by the hearing offi-

cer, and to receive copies of the transcript of the proceedings. Formal rules of evidence will not apply. The hearing officer will rule on all evidentiary matters, and on all motions, which will be subject to review pursuant to § 226.3.

§ 226.3 Determinations.

Within 30 days following adjournment of the hearing, the hearing officer will in all cases make findings of facts and recommendations to the Administrator, including, when appropriate, a recommended appropriate penalty, after consideration of the gravity of the violation, prior violations by the person charged, and the demonstrated good faith by such person in attempting to achieve rapid compliance with the provisions of the Act and this subchapter. A copy of the findings and recommendations of the hearing officer shall be provided to the person charged at the same time they are forwarded to the Administrator. Within 30 days of the date on which the hearing officer's findings and recommendations are forwarded to the Administrator, any party objecting thereto may file written exceptions with the Administrator.

§ 226.4 Final action.

A final order on a proceeding under this Part will be issued by the Administrator or by such other person designated by the Administrator to take such final action, no sooner than 30 days following receipt of the findings and recommendations of the hearing officer. A copy of the final order will be served by registered mail (return receipt requested) on the person charged or his representative. In the event the final order assesses a penalty, it shall be payable within 60 days of the date of receipt of the final order, unless judicial review of the final order is sought by the person against whom the penalty is assessed.

PART 227—CRITERIA FOR THE EVALUATION OF PERMIT APPLICATIONS

Sec.

AUTHORITY: Title I, Pub. L. 92–532, 86 Stat. 1052 (33 U.S.C. 1411–1421).

§ 227.1 General grounds for the issuance of permits.

(a) It is the policy of the Environmental Protection Agency to regulate the dumping of all types of materials into ocean waters and to prevent or to regulate strictly the dumping or other discharge into ocean waters of any material in quantities which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities, or plankton, fish, shellfish, wildlife, shorelines, or beaches.

(b) These criteria apply to the evaluation of permit applications for the dumping or discharge through outfalls or other structures of gaseous, solid, and/or liquid matter of any kind or description.

(c) Sections 102(c) of PL 92–532 and 403(c) of PL 92–500 both require that applications for permits for the dumping or other discharge of any materials into the marine environment be evaluated on the basis of the impact of the materials on the marine environment and marine ecosystems, on the present and potential uses of the ocean, and on the economic and social factors involved.

(d) The disposal of some types of waste materials into the marine environment is prohibited because of explicit legislative requirements. Such prohibited waste materials are identified in § 227.21 (a), (b), (c).

(e) The disposal of some types of waste materials into the marine environment is strictly regulated to prevent or minimize known or potential adverse effects on the aquatic ecosystem or human health and welfare. These materials and limiting concentrations and conditions upon the disposal of these materials are given in § 227.3. The concentrations and quantities of materials identified in this section are based on the most current scientific knowledge and will be subject to revision as more knowledge of marine processes and ecosystems becomes available. It is the goal of the ocean dumping permit program of the Environmental Protection Agency to require development of implementation plans for elimination of dumping of any materials in excess of these concentrations and quantities as rapidly as possible.

(f) The disposal of some types of waste materials is subject to less strict regulation and permission because of the minimal adverse environmental effects to be anticipated by reason of such disposal. These waste materials are described in § 227.5.

(g) Irrespective of other stated specific requirements, no permit will be issued which would result in the violation of applicable existing state water quality standards.

§ 227.2 Prohibited acts.

§ 227.21 Materials for which no permit will be issued.

The dumping, or transportation for dumping, of the following materials will not be approved by EPA under any circumstances:

(a) High-level radioactive wastes as defined in § 227.75.

(b) Materials in whatever form (e.g., solids, liquids, semi-liquids, gases or in a living state) produced for radiological, chemical or biological warfare.

(c) Materials insufficiently described in terms of their physical, chemical, or biological properties to permit evaluation of their impact on marine ecosystems.

(d) Persistent inert synthetic or natural materials which may float or remain in suspension in the ocean may not be dumped. They may, however, be dumped when they have been processed in such a fashion that they will sink to the bottom and remain in place.

§ 227.22 Other prohibited materials.

Subject to the exclusion of paragraph (h) of this section, the dumping, or transportation for dumping, of wastes containing the following materials as other than trace contaminants will not be approved by EPA:

(a) Organohalogen compounds and compounds which may form such substances in the marine environment.

(b) Mercury and mercury compounds.

(c) Cadmium and cadmium compounds.

(d) Crude oil, fuel oil, heavy diesel oil, and lubricating oils, hydraulic fluids, and any mixtures containing these, taken on board for the purpose of dumping, insofar as these are not regulated under P.L. 92–500.

(e) The materials listed in paragraphs (a)–(d) of this section will be considered as trace contaminants when they are present in sewage sludge, dredged material, or in wastes from industries which do not use or produce the constituents identified in this section.

(f) Wastes containing these constituents as trace contaminants as defined in paragraph (e) of this section may be dumped under special permit when the following limits are not exceeded:

(1) Mercury and its compounds are not present in any solid phase of a waste in concentrations greater than 0.75 mg/kg, and the total concentration of mercury in the liquid phase of a waste does not exceed 1.5 mg/kg.

(2) Cadmium and its compounds are not present in any solid phase of a waste in concentrations greater than 0.6 mg/kg, and the total concentration of cadmium in the liquid phase of a waste does not exceed 3.0 mg/kg.

(3) The total concentrations of organohalogens do not exceed the limiting permissible concentration of pollutants as defined in section 227.71.

(4) The total amounts of oils and greases as identified in paragraph (d) of this section do not produce a visible surface sheen in an undisturbed water sample when added at a rate of one part waste material to 100 parts of water.

(g) Those constituents identified in paragraphs (a)–(d) of this section will be regarded as trace contaminants in the waste material of an industrial process or plant which uses them as raw materials or produces any of them only when the limitations of paragraph (f) of this section are not exceeded.

(h) Paragraphs (a)–(d) of this section do not apply to materials which are harmless or are rapidly rendered harmless by physical, chemical, or biological processes in the sea; provided they will not, if dumped, make edible marine organisms unpalatable; or will not, if dumped, endanger human health or that of domestic animals, fish, shellfish, and wildlife.

§ 227.3 Strictly regulated dumping.

Evidence of the acceptability of proposed acts of disposal will be required from the applicant according to the criteria in §§ 227.31 through 227.36.

§ 227.31 Materials requiring special care.

(a) Permits may be issued for the dumping or other disposal of the materials described in paragraph (b) of this section if the applicant can demonstrate that the material proposed for disposal meets the limiting permissible concentration of total pollutants as defined in § 227.71 considering both the concentration of pollutants in the waste material itself and the total mixing zone available for initial dilution and dispersion.

(b) Wastes containing one or more of the following materials shall be treated as requiring special care:

(1) The elements, ions, and compounds of:

Arsenic.	Vanadium.
Lead.	Beryllium.
Copper.	Chromium.
Zinc.	Nickel.
Selenium.	

(2) Organosilicon compounds and compounds which may form such substances in the marine environment:

(3) Inorganic processing wastes, including cyanides, fluorides, titanium dioxide wastes, and chlorine.

(4) Petrochemicals, organic chemicals; and organic processing wastes, inincluding, but not limited to:

Aliphatic solvents.	Amines.
Phenols.	Polycyclic aromatics.
Plastic intermediates and by-products.	Phthalate esters.
Plastics.	Detergents.

(5) Biocides not prohibited elsewhere, including, but not limtied to:

Organophosphorus compounds.	Herbicides.
Carbamate compounds.	Insecticides.

(6) Oxygen-consuming and/or biodegradable organic matter.

(7) Radioactive wastes not otherwise prohibited. As a general policy, the containment of radioactive materials (§ 227.35) is indicated rather than their direct dispersion and dilution in ocean waters.

(8) Materials on any list of toxic pollutants published under section 307(a) of P.L. 92–500, and materials designated as hazardous substances under section 311(b)(2)(A) of P.L. 92–500, unless more strictly regulated under § 227.2.

(9) Materials that are immiscible with seawater, such as gasoline, carbon disulfide, toluene.

§ 227.32 Hazards to fishing or navigation.

Wastes which may present a serious obstacle to fishing or navigation may be disposed of only at dumping sites and under conditions which will insure no interference with fishing or navigation.

§ 227.33 Large quantities of materials.

Substances of a non-toxic nature which may damage the ocean environment due to the quantities in which they are dumped, or which are liable to seriously reduce amenities, may be dumped only when the quantities to be dumped at a single time and place are controlled to prevent damage to the environment or to amenities.

§ 227.34 Acids and alkalis.

In the dumping of large quantities of acids and alkalis, consideration shall be given: (a) To the effects of any change in acidity or alkalinity of the water at the disposal site; and (b) to the potential for synergistic effects or for the formation of toxic compounds in the dumping area.

§ 227.35 Containerized wastes.

(a) Wastes containerized solely for transport to the dumping site and expected to rupture or leak on impact or shortly thereafter must meet the requirements of §§ 227.22, 227.31, 227.32, and 227.36.

(b) Other containerized wastes will be approved for dumping only under the following conditions:

(1) The materials to be disposed of decay, decompose or radiodecay to environmentally innocuous materials considering the life expectancy of the containers and/or their inert matrix:

(2) Materials to be disposed of are present in such quantities and are of such nature that only short-term localized adverse effects will occur should the containers rupture at any time; and

(3) Containers are disposed of at depths and locations where they will cause no threat to navigation or fishing.

§ 227.36 Materials containing living organisms.

It is prohibited to dump any material which would:

(a) Extend the range of biological pests, viruses, pathogenic microorganisms or other agents capable of infesting, infecting or altering the normal populations of organisms.

(b) Degrade uninfected areas, or

(c) Introduce viable species not indigenous to an area.

§ 227.4 Implementation plan requirements for interim permits.

As a condition on every interim permit, the applicant must carry out two phases to bring his waste within acceptable limits:

PHASE A—PLANNING

(a) Make a thorough review of the actual need for the dumping;

(b) Submit an evaluation of potential environmental impact:

(1) Description of proposed action;

(2) Environmental impact of the proposed action;

(3) Adverse impacts which cannot be avoided should the proposal be implemented;

(4) Alternatives to the proposed action:

(i) Land fill;

(ii) Deep well injection;

(iii) Shallow well injection;

(iv) Incineration;

(v) Spread of material over open ground;

(vi) Recycling of material for:

(a) Reuse in process;

(b) By-products;

(vii) Biological, chemical, or physical treatment;

(5) Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(6) Irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(7) A discussion of problems and objections raised by other Federal, State and local agencies and by interested persons in the review process;

The content of an acceptable plan for different waste materials will vary but the following requirements should be recognized and met:

(a) If the waste is treated to the degree necessary to bring it into compliance with the ocean disposal criteria, the applicant should provide a description of the treatment and a scheduled program for treatment and a subsequent analysis of treated material to prove the effectiveness of the process.

(b) If treatment cannot be effected by post-process techniques the applicant should, determining the offending constituents, examine his raw materials and his total process to determine the origin of the pollutant. If the offending constituents are found in the raw material the applicant should consider a new supplier and provide an analysis of the new material to prove compliance. Raw materials are to include all water used in the process. Water from municipal sources complying with drinking water standards is acceptable. Water from other sources such as private wells should be analyzed for contaminants. Water that has been used in the process should be considered for treatment and recycling as an additional source of process water.

(c) If offending constituents are a result of the process, it is recommended that a consultant be employed by the applicant to investigate and describe the source of the constituents. A report of this information will be submitted to EPA and the applicant will then submit a proposal describing possible alternatives to the existing process or processes and level of cost and effectiveness.

(d) Schedule and documentation for implementation of approved control process:

(1) Engineering plan.

(2) Financing approval.

(3) Starting date for change.
(4) Completion date.
(5) Operation starting date.

(e) If an acceptable alternative does not exist, the applicant will demonstrate a commitment to an investigation of the problem either by submitting an acceptable in-house research program or by employing a competent research institution to study the problem. The program of research will then be submitted by the permittee/applicant.

(f) Schedule and documentation for implementation of a research program:
(1) Approaches.
(2) Experimental design.
(3) Starting date.
(4) Reporting intervals.
(5) Proposed completion date.
(6) Report of recommendations.

PHASE B—IMPLEMENTATION

In no event will an interim permit be granted for the dumping of materials which do not meet the provisions of § 227.3 unless the permit applicant can: (a) demonstrate the need for the proposed dumping as compared to alternative locations and methods of disposal or recycling, (b) demonstrate that the need for the proposed dumping outweighs the potential harm which may take place as a result of such dumping, and (c) provide a satisfactory implementation plan covering future dumping activities and fully adhere to the plan. For industrial sources, any such plan shall provide for:

(a) By not later than July 1, 1977, the application of the best practicable technology currently available for the removal of such materials, as determined by the Administrator;

(b) By not later than July 1, 1983, the application of the best available technology economically available for the removal of such material, as determined by the Administrator, which will result in reasonable further progress toward the goal of achieving compliance with the requirements of this part.

§ 227.5 Less strictly regulated dumping and disposal acts.

§ 227.51 Wastes of a non-toxic nature.

Liquid waste phases containing none of the materials listed in §§ 227.22 and 227.31 may be regarded as basically non-toxic in the marine environment. Solid waste phases containing any or all of the materials listed in §§ 227.22 and 227.31 in forms insoluble or soluble but not exceeding the acceptable limits of § 227.22(f) or limiting permissible concentrations of § 227.71 may also be regarded as non-toxic in the marine environment. Permit applications for such materials may be evaluated on the basis of the chemical composition and physical nature of the waste without the need for a bioassay as required under § 227.31.

§ 227.52 Solid wastes.

Solid wastes of natural minerals or materials compatible with the ocean environment may be generally approved for ocean disposal provided they are insoluble above the applicable trace or limiting permissible concentrations and are rapidly and completely settleable, or they are of a particle size and density that they would be deposited or rapidly dispersed without damage to benthic, demersal, or pelagic biota.

§ 227.6 Disposal of dredged material.

The dumping of any material dredged or excavated from the navigable waters of the United States is regulated by the U.S. Army Corps of Engineers. With respect to the dumping of such material in the ocean, the following definitions and criteria will be considered:

(a) Dredged materials are bottom sediments that have been dredged or excavated from the navigable waters of the United States. In that sediments are known to include and/or to exhibit a capacity for absorption and adsorption of a wide variety of chemical substances, including man-made pollutants, the presence or absence of pollutants within sediments may be used as an index of the history of exposure of the sediments to domestic and industrial discharges, as well as urban and agricultural runoff.

(b) Because the natural processes of sediment absorption, adsorption, deposition, resuspension, and redeposition may alter the toxic or other pollutional properties of municipal, industrial, or runoff wastes incorporated into bottom sediments, practical implementation of the criteria of §§ 227.22 and 227.31 will be achieved through the procedures of the following sections in differentiating between unpolluted and polluted dredged material.

(c) The dumping of dredged material in the ocean will be permitted subject to the conditions outlined in §§ 227.61 through 227.64 unless there is evidence that the proposed disposal will have an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas.

(d) Decisions concerning the disposal of dredged material in the ocean will be based on considerations of the actual need for such disposal, alternatives to ocean dumping, the nature and extent of the environmental impact, and the economic costs or benefits involved.

§ 227.61 Unpolluted dredged material.

Dredged material may be classified as unpolluted based on the known primary source(s) of the sediments, the history of its exposure to pollutants, and its physical composition. If the sediments cannot be classified as unpolluted according to the following criteria, laboratory analyses will be required. Dredged material will be considered unpolluted if it meets one of the following conditions:

(a) The dredged material is composed essentially of sand and/or gravel, or of any other naturally occurring sedimentary materials with particle sizes larger than silts and clays, generally found in inlet channels, ocean bars, ocean entrance channels to sounds and estuaries, and other areas of normally high wave energy such as predominates at open coastlines.

(b) If the water quality at and near the dredging site is adequate, according to the applicable State water quality standards, for the propagation of fish, shellfish, and wildlife, and if the biota associated with the material to be dredged are typical of a healthy ecosystem, taking into account the normal frequency of dredging, the sediments can be reasonably classified as unpolluted.

(c) If it produces a standard elutriate in which the concentration of no major constituent is more than 1.5 times the concentration of the same constituent in the water from the proposed disposal site used for the testing. The "standard elutriate" is the supernatant resulting from the vigorous 30-minute shaking of one part bottom sediment with four parts water from the proposed disposal site followed by one hour of letting the mixture settle and appropriate filtration or centrifugation. "Major constituents" are those water quality parameters deemed critical for the proposed dredging and disposal sites taking into account known point or areal source discharges in the area, and the possible presence in their wastes of the materials in §§ 227.22 and 227.31.

§ 227.62 Disposal of unpolluted dredged material.

Material which is determined to be unpolluted may be dumped at any site which has been approved for the dumping of settleable solid wastes of natural origin.

§ 227.63 Polluted dredged material.

Any dredged material which cannot be classified as unpolluted according to the requirements of § 227.61 is regarded as polluted dredged material.

§ 227.64 Disposal of polluted dredged material.

Polluted dredged material may be disposed of in the ocean if it can be shown that the place, time, and conditions of dumping are such as not to produce an unacceptable adverse impact on the areas of the marine environment cited in § 227.60(c). When material has been found to be polluted in accordance with § 227.61(c), bioassay tests may be performed when it can be shown that the results of such tests can be used to assist in setting disposal conditions. To minimize the possibility of any such harmful effects, disposal conditions must be carefully set, with particular attention being given to the following factors:

(a) *Disposal site selection.* (1) Disposal sites should be areas where benthic life which might be damaged by the dumping is minimal.

(2) The disposal site must be located such that disposal operations will cause no unacceptable adverse effects to known nursery or productive fishing areas. Where prevailing currents exist, the currents should be such that any suspended or dissolved matter would not be carried in to known nursery or productive fishing areas or populated or protected shoreline areas.

(3) Disposal sites should be selected whose physical environmental characteristics are most amenable to the type of dispersion desired.

(b) *Dumping conditions.* (1) Times of dumping should be chosen, where possible, to avoid interference with the seasonal reproductive and migratory cycles of aquatic life in the disposal area.

(2) If the type of material involved and the environmental characteristics

of the disposal site should make either maximum or minimum dispersion desirable, the discharge from and movement of the vessel during dumping should be in such a manner as to obtain the desired result to the fullest extent feasible.

§ 227.65 Revision of test procedures.

Test procedures and values mentioned above are based on the best currently available knowledge and are subject to revision and modification based on the general increase of knowledge or specific information on the effects of the disposal of dredged materials in the ocean.

§ 227.7 Definitions.

§ 227.71 Limiting permissible concentrations.

The limiting permissible concentration is:

(a) That concentration of a waste material or chemical constituent in the receiving water which, after reasonable allowance for initial mixing in the mixing zone, will not exceed 0.01 of a concentration shown to be toxic to appropriate sensitive marine organisms in a bioassay carried out in accordance with approved EPA procedures; or

(b) 0.01 of a concentration of a waste material or chemical constituent otherwise shown to be detrimental to the marine environment.

§ 227.72 Release zone.

A release zone is the area swept out by the locus of points constantly 100 meters from the perimeter of the conveyance engaged in dumping activities, beginning at the first moment in which dumping is scheduled to occur and ending at the the last moment in which dumping is scheduled to occur. For disposal through an outfall or other fixed stucture, the release zone is measured from the point at which the waste material enters the ocean if no diffuser is used, or from the length of outfall along which diffuser ports are located.

§ 227.73 Mixing zone.

(a) The mixing zone is the region into which a waste is initially dumped or otherwised discharged, and into which the waste will mix to a relatively uniform concentration within four hours after dumping. It is required that the concentration of all waste materials or trace contaminants be at, or below, the limiting permissible concentration at the boundaries of the mixing zone at all times and within the mixing zone four hours after discharge. The actual configuration of a mixing zone will depend upon vessel speed, method of disposal, type of waste, and ocean current and wave conditions. For the purposes of these regulations a volume equivalent to that of a mixing zone is the column of water immediately contiguous to the release zone, beginning at the surface of the water and ending at the ocean floor, the thermocline or halocline, if one exists, or 20 meters, whichever is the shortest distance.

(b) For disposal through an outfall or other structure, the volume of the mixing zone will be measured by projecting the release zone at the depth of the point of release or the waste to the nearest hydrodynamic discontinuities above and below that point, but in no case exceeding 20 meters in total distance. Diffusion of wastes beyond the limits of the mixing zone will be estimated by standard oceanographic methods of calculation acceptable to the Administrator or his designee.

§ 227.74 High-level radioactive wastes.

High-level radioactive waste means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels or irradiated fuel from nuclear power reactors.

§ 227.8 Amendment of criteria.

In the event that the Administrator or his delegate concludes that it is desirable to amend this Part, he shall announce his intention of doing so by publishing notice thereof in the FEDERAL REGISTER, and shall thereafter follow the procedures prescribed in section 4 of the Administrative Procedures Act (5 U.S.C. 553). Any person proposing amendments to this Part shall notify the Administrator of the amendments so proposed, and the justifications supporting the amendments so proposed. Should the Administrator reject the amendments so proposed, he shall notify the proponent of such action within 30 days of the date upon which such amendments were given to him.

[FR Doc.73-21343 Filed 10-12-73;8:45 am]

federal register

MONDAY, OCTOBER 15, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 198

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

RADIOLOGICAL HEALTH

Reorganization and Republication

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Recodification Docket No. 1]

SUBCHAPTER J—RADIOLOGICAL HEALTH

REORGANIZATION AND REPUBLICATION

The Commissioner of Food and Drugs, for the purpose of establishing an orderly development of informative regulations for the Food and Drug Administration, furnishing ample room for expansion of such regulations in years ahead, and providing the public and affected industries with regulations that are easy to find, read, and understand, has initiated a recodification program for Chapter I of Title 21 of the Code of Federal Regulations. This is the first document in a series of recodification documents that will eventually include all regulations administered by the Food and Drug Administration.

The regulations formerly under Part 278—Regulations for the Administration and Enforcement of the Radiation Control for Health and Safety Act of 1968 have been reorganized into eight parts in an effort to provide greater clarity and adequate space for the development of future regulations.

The changes being made are nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation. For the convenience of the user the entire text of the revised Subchapter J—Radiological Health is set forth below.

Dated October 5, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

Therefore, Part 278 of Chapter I, Subchapter F, is redesignated as Subchapter J consisting of Parts 1000–1030 and republished to read as set forth below.

SUBCHAPTER J—RADIOLOGICAL HEALTH

Parts

PART 1000—GENERAL

Subpart A—General Provisions

Sec.

Subpart B—Statements of Policy and Interpretation

AUTHORITY: Secs. 215, 356, 58 Stat. 690, 82 Stat. 1174; 42 U.S.C. 216, 263d.

Subpart A—General Provisions

§ 1000.3 Definitions.

As used in this Subchapter J:

(a) "Electronic product radiation" means—

(1) Any ionizing or nonionizing electromagnetic or particulate radiation, or

(2) Any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(b) "Electromagnetic radiation" includes the entire electromagnetic spectrum of radiation, of any wavelength. The electromagnetic spectrum illustrated in Figure 1 includes, but is not limited to, gamma rays, X-rays, ultraviolet, visible, infrared, microwave, radiowave, and low frequency radiations.

(c) "Particulate radiation" is defined as charged particles such as protons, electrons, alpha particles, heavy particles, etc., which have sufficient kinetic energy to produce ionization or atomic or electron excitation by collision, electrical attractions or electrical repulsion or uncharged particles such as neutrons, which can initiate a nuclear transformation or liberate charged particles having sufficient kinetic energy to produce ionization or atomic or electron excitation by collision.

(d) "Infrasonic, sonic (or audible) and ultrasonic waves" refer to energy transmitted as an alteration (pressure, particle displacement or density) in a property of an elastic medium (gas, liquid or solid) that can be detected by an instrument or listener.

(e) "Electronic product" means (1) any manufactured or assembled product which, when in operation, (i) contains or acts as part of an electronic circuit and (ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or (2) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in subparagraph (1) and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation.

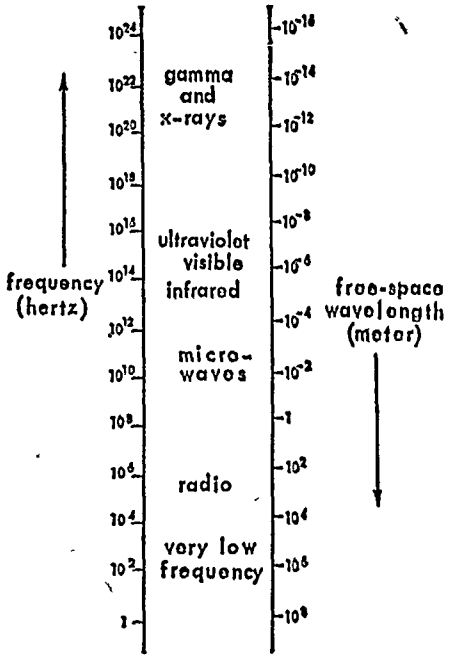

Figure 1. The Electromagnetic Spectrum

(f) "Manufacturer" means any person engaged in the business of manufacturing, assembling, or importing of electronic products.

(g) "Commerce" means (1) commerce between any place in any State and any place outside thereof, and (2) commerce wholly within the District of Columbia.

(h) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(i) "Act" means the Radiation Control for Health and Safety Act of 1968 (Public Law 90-602, 42 U.S.C. 263b et seq.).

(j) "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

(k) "Federal standard" means a performance standard issued pursuant to section 358 of the Act.

(l) The term "dealer" means a person engaged in the business of offering electronic products for sale to purchasers, without regard to whether such person is or has been primarily engaged in such business, and includes persons who offer such products for lease or as prizes or awards.

(m) The term "distributor" means a person engaged in the business of offering electronic products for sale to dealers without regard to whether such person is or has been primarily or customarily engaged in such business.

(n) The term "purchaser" means the first person who, for value, or as an award or prize, acquires an electronic

product for purposes other than resale, and also includes a person who leases an electronic product for purposes other than subleasing.

(o) The term "model" means any identifiable, unique electronic product design, and refers to products having the same structural and electrical design characteristics and to which the manufacturer has assigned a specific designation to differentiate between it and other products produced by that manufacturer.

Subpart B—Statements of Policy and Interpretation

§ 1000.15 Examples of electronic products subject to the Radiation Control for Health and Safety Act of 1968.

The following listed electronic products are intended to serve as illustrative examples of sources of electronic product radiation to which the regulations of this part apply.

(a) Examples of electronic products which may emit X-rays and other ionizing electromagnetic radiation, electrons, neutrons, and other particulate radiation include:

Ionizing electromagnetic radiation:
- Television receivers.
- Accelerators.
- X-ray machines (industrial, medical, research, educational).

Particulate radiation and ionizing electromagnetic radiation:
- Electron microscopes.
- Neutron generators.

(b) Examples of electronic products which may emit ultraviolet, visible, infrared, microwaves, radio and low frequency electromagnetic radiation include:

Ultraviolet:
- Biochemical and medical analyzers.
- Tanning and therapeutic lamps.
- Sanitizing and sterilizing devices.
- Black light sources.
- Welding equipment.

Visible:
- White light devices.

Infrared:
- Alarm systems.
- Diathermy units.
- Dryers, ovens, and heaters.

Microwave:
- Alarm systems.
- Diathermy units.
- Dryers, ovens, and heaters.
- Medico-biological heaters.
- Microwave power generating devices.
- Radar devices.
- Remote control devices.
- Signal generators.

Radio and low frequency:
- Cauterizers.
- Diathermy units.
- Power generation and transmission equipment.
- Signal generators.
- Electromedical equipment.

(c) Examples of electronic products which may emit coherent electromagnetic radiation produced by stimulated emission include:

Laser:
- Art-form, experimental and educational devices.
- Biomedical analyzers.
- Cauterizing, burning and welding devices.
- Cutting and drilling devices.
- Communications transmitters.
- Rangefinding devices.

Maser:
- Communications transmitters.

(d) Examples of electronic products which may emit infrasonic, sonic, and ultrasonic vibrations resulting from operation of an electronic circuit include:

Infrasonic:
- Vibrators.

Sonic:
- Electronic oscillators.
- Sound amplification equipment.

Ultrasonic:
- Cauterizers.
- Cell and tissue disintegrators.
- Cleaners.
- Diagnostic and nondestructive testing equipment.
- Ranging and detection equipment.

PART 1002—RECORDS AND REPORTS

Subpart A—General Provisions

Sec.
- 1002.1 Applicability.
- 1002.2 Definitions.
- 1002.3 Records and reports on components.
- 1002.4 Confidentiality of information.

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

- 1002.10 Initial reports.
- 1002.11 Annual reports.
- 1002.12 Reports of model changes.

Subpart C—Manufacturers' Reports on Accidental Radiation Occurrences

- 1002.20 Reporting of accidental radiation occurrences.

Subpart D—Manufacturers' Records

- 1002.30 Records to be maintained by manufacturers.
- 1002.31 Preservation and inspection of records.

Subpart E—Dealer and Distributor Records

- 1002.40 Records to be maintained by dealers and distributors.
- 1002.41 Records furnished to manufacturers by dealers and distributors.
- 1002.42 Confidentiality of records furnished by dealers and distributors.

Subpart F—Exemptions From Records and Reports Requirements

- 1002.50 Special exemptions.
- 1002.51 Exemptions for manufacturers of products intended for the U.S. Government.

Subpart G—Codes for Reporting Listed Electronic Products

- 1002.61 List of specific product groups.

AUTHORITY: Sec. 360A, 82 Stat. 1183; 42 U.S.C. 263l.

Subpart A—General Provisions

§ 1002.1 Applicability.

The provisions of this part are applicable to manufacturers, dealers, and distributors of electronic products as specified herein, but, except for § 1002.20, are not applicable to:

(a) Manufacturers of electronic products intended solely for export if such a product is labeled or tagged to show that the product is intended for export, and the product meets all the applicable requirements of the country to which such product is intended for export, and

(b) Manufacturers of listed products sold exclusively to other manufacturers for use as components of electronic products to be sold to purchasers.

(c) Manufacturers of electronic products which are intended for use by the U.S. Government and whose function or design cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

§ 1002.2 Definitions.

As used in this part:

(a) The term "dealer" means a person engaged in the business of offering electronic products for sale to purchasers, without regard to whether such person is or has been primarily engaged in such business, and includes persons who offer such products for lease or as prizes or awards.

(b) The term "distributor" means a person engaged in the business of offering electronic products for sale to dealers without regard to whether such person is or has been primarily or customarily engaged in such business.

(c) The term "purchaser" means the first person who, for value, or as an award or prize, acquires an electronic product for purposes other than resale, and also includes a person who leases an electronic product for purposes other than subleasing.

(d) The term "accidental radiation occurrence" means a single event or series of events occurring in the course of the manufacturing, testing, or use of any electronic product which has resulted in injurious or potentially injurious exposure of any person to electronic product radiation as a direct result of the manufacturing, testing, or use of that product.

(e) The term "model" means any identifiable, unique electronic product design, and refers to products having the same structural and electrical design characteristics and to which the manufacturer has assigned a specific designation to differentiate between it and other products produced by that manufacturer.

§ 1002.3 Records and reports on components.

Records and reports required for products listed in § 1002.61 shall include information on all components which the manufacturer may provide with the listed product and which affect the quantity, quality, or direction of the radiation emissions.

§ 1002.4 Confidentiality of information.

The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to this part, which concerns or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, except that such information may be disclosed to other officers or employees of the Department and of the other agencies concerned with carrying out the requirements of the Act. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

§ 1002.10 Initial reports.

Every manufacturer of a product listed under § 1002.61, shall submit an initial report to the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852, in accordance with this section. The report shall be submitted within 90 days following the effective date of this subpart or prior to the introduction of such product into commerce, whichever is later. The report shall be distinctly marked "Initial Report of (Name of Manufacturer)" and shall:

(a) State in the report for each model of a listed product whether the report is submitted pursuant to paragraph (a), (b), or (c) of § 1002.61.

(b) Identify each model of the listed product together with sufficient information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary to determine the date and place of manufacture.

(c) Describe the function, operational characteristics affecting radiation emissions, and intended and known uses of each model of the listed product.

(d) State the standards or design specifications, if any, for each model with respect to electronic product radiation safety. Reference may be made to a Federal standard, if applicable.

(e) For each model, describe the physical or electrical characteristics such as shielding, or electronic circuitry, etc., incorporated into the product in order that the standards or specifications reported pursuant to paragraph (d) of this section are met.

(f) Describe the methods and procedures employed, if any, in testing and measuring each model with respect to electronic product radiation safety including the control of unnecessary, secondary, or leakage electronic product radiation, the applicable quality control procedures used for each model, and the basis for selecting such testing and quality control procedures.

(g) For those products which may produce increased radiation with aging, describe the methods and procedures used, and frequency of testing each model for durability and stability with respect to electronic product radiation safety. Include the basis for selecting such methods and procedures, or for determining that such testing and quality control procedures are not necessary.

(h) Provide sufficient results of the testing and measuring of electronic product radiation safety and of the quality control procedures described in accordance with paragraphs (f) and (g) of this section to enable the Secretary to determine the effectiveness of the methods and procedures used to accomplish the stated purposes.

(i) Report for each model, all warning signs, labels and instructions, for installation, operation, and use which relate to electronic product radiation safety.

(j) Provide upon request such other information as the Secretary may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the Act and any standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

§ 1002.11 Annual reports.

(a) Every manufacturer of products listed under § 1002.61(b) and (c) shall submit an annual report summarizing the contents of the records required to be maintained by § 1002.30(a).

(b) The first annual report shall be submitted by September 1, 1971, with subsequent reports due annually thereafter. Such reports shall cover the 12-month period ending on June 30 preceding the due date of the report.

§ 1002.12 Reports of model changes.

Prior to the introduction into commerce of a new or modified model of a product listed in § 1002.61 for which an initial report under § 1002.10 was required, each manufacturer shall submit a report with respect to such new or modified model containing any changes in the information submitted in the initial report.

Subpart C—Manufacturers' Reports on Accidental Radiation Occurrences

§ 1002.20 Reporting of accidental radiation occurrences.

(a) Manufacturers of electronic products shall, where reasonable grounds for suspecting that such an incident has occurred, immediately report to the Director, Bureau of Radiological Health, all accidental radiation occurrences reported to or otherwise known to the manufacturer and arising from the manufacturing, testing, or use of any product introduced or intended to be introduced into commerce by such manufacturer. Reasonable grounds include, but are not necessarily limited to, professional, scientific, or medical facts or opinions documented or otherwise, that conclude or lead to the conclusion that such an incident has occurred.

(b) Such reports shall be addressed to the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852, and the reports and their envelopes shall be distinctly marked "Report on § 1002.20" and shall contain all of the following information where known to the manufacturer:

(1) The nature of the accidental radiation occurrence;

(2) The location at which the accidental radiation occurrence occurred;

(3) The manufacturer, type, and model number of the electronic product or products involved;

(4) The circumstances surrounding the accidental radiation occurrence, including causes;

(5) The number of persons involved, adversely affected, or exposed during the accidental radiation occurrence, the nature and magnitude of their exposure and/or injuries and, if requested by the Director, Bureau of Radiological Health, the names of the persons involved;

(6) The actions, if any, which may have been taken by the manufacturer, to control, correct, or eliminate the causes and to prevent reoccurrence; and

(7) Any other pertinent information with respect to the accidental radiation occurrence.

Subpart D—Manufacturers' Records

§ 1002.30 Records to be maintained by manufacturers.

(a) Manufacturers of products listed under paragraphs (b) and (c) of § 1002.61 shall establish and maintain the following records with respect to such products:

(1) Description of the quality control procedures with respect to electronic product radiation safety.

(2) Records of the results of tests for electronic product radiation safety, including the control of unnecessary, secondary or leakage electronic product radiation, the methods, devices, and procedures used in such tests, and the basis for selecting such methods, devices, and procedures.

(3) For those products displaying aging effects which may increase electronic product radiation emission, records of the results of tests for durability and stability of the product, and the basis for selecting these tests.

(4) Copies of all written communications between the manufacturer and dealers, distributors, and purchasers concerning radiation safety including complaints, investigations, instructions, or explanations affecting the use, repair, adjustment, maintenance, or testing of the listed product.

(b) In addition to the records required by paragraph (a) of this section, manufacturers of products listed in paragraph (c) of § 1002.61 shall establish and maintain the following records with respect to such products:

(1) A record of the manufacturer's distribution of products in a form which will enable the tracing of specific products or production lots to distributors or to dealers in those instances in which the manufacturer distributes directly to dealers.

(2) Records received from dealers or distributors pursuant to § 1002.41.

§ 1002.31 Preservation and inspection of records.

(a) Every manufacturer required to maintain records pursuant to this part, including records received pursuant to § 1002.41, shall preserve such records for a period of 5 years from the date of the record.

(b) Upon reasonable notice by an officer or employee duly designated by the Department, manufacturers shall permit such officer or employee to inspect appropriate books, records, papers, and documents as are relevant to determining whether the manufacturer has acted or is acting in compliance with Federal standards.

(c) Upon request of the Director, Bureau of Radiological Health, a manufacturer of products listed in paragraph (c) of § 1002.61 shall submit to the Director, copies of the records required to

be maintained by paragraph (b) of § 1002.30.

Subpart E—Dealer and Distributor Records

§ 1002.40 Records to be maintained by dealers and distributors.

(a) Dealers and distributors of electronic products listed in paragraph (c) of § 1002.61, for which there are applicable Federal standards under this subchapter and for which the retail price is not less than $50, shall obtain and preserve for a period of 5 years from the date of the sale, award, or lease of each such product such information as is necessary to permit tracing of specific products to specific purchasers.

(b) Such information shall include:

(1) The name and mailing address of the distributor, dealer, or purchaser to whom the product was transferred.

(2) Identification and brand name of the product.

(3) Model number and serial or other identification number of the product.

(4) Date of sale, award, or lease.

§ 1002.41 Records furnished to manufacturers by dealers and distributors.

(a) Information obtained by dealers and distributors pursuant to § 1002.40 shall immediately be forwarded to the appropriate manufacturer unless:

(1) The dealer or distributor elects to hold and preserve such information and to immediately furnish it to the manufacturer when advised by the manufacturer or the Director, Bureau of Radiological Health, that such information is required for purposes of section 359 of the Act; and

(2) The dealer or distributor, upon making the election under subparagraph (1) of this paragraph, promptly notifies the manufacturer and the Director, Bureau of Radiological Health, of such election; such notification shall be in writing and shall identify the dealer or distributor and the electronic product or products for which the information is being accumulated and preserved.

(b) Every dealer or distributor obtaining information pursuant to this part shall take such steps as are necessary to insure that such information is furnished to the manufacturer prior to the time the dealer or distributor discontinues the dealing in or distribution of electronic products.

§ 1002.42 Confidentiality of records furnished by dealers and distributors.

All information furnished to manufacturers by dealers and distributors pursuant to this part shall be treated by such manufacturers as confidential information which may be used only as necessary to notify persons pursuant to section 359 of the Act.

Subpart F—Exemptions from Records and Reports Requirements

§ 1002.50 Special exemptions.

(a) Manufacturers of electronic products listed under paragraphs (b) and (c) of § 1002.61 may submit to the Director, Bureau of Radiological Health, with or subsequent to the submission of the initial report required by § 1002.10, a request, together with accompanying justification, that a product be exempted from the annual reporting and recordkeeping requirements. In addition to other information which may be required, the justification must contain documented evidence showing that the product or product type for which the exemption is requested:

(1) Cannot emit electronic product radiation in sufficient intensity or of such quality under any conditions of use or product failure to be hazardous; or

(2) Is produced in such small numbers as to negate the need for continuous recordkeeping and reporting, and is to be used by trained individuals who are knowledgable of the hazards involved in such use.

(b) The Director, Bureau of Radiological Health, may exempt manufacturers from all or part of the record and reporting requirements of this part on the basis of information submitted in accordance with paragraph (a) of this section or such other information which he may possess or may require of the manufacturer if he determines that such exemption is in keeping with the purposes of the Act.

§ 1002.51 Exemptions for manufacturers of products intended for the U.S. Government.

Upon application therefore by the manufacturer, the Director, Bureau of Radiological Health, may exempt from the provisions of this part a manufacturer of any electronic product intended for use by departments or agencies of the United States provided such department or agency has prescribed procurement specifications governing emissions of electronic product radiation and provided further that such product is of a type used solely or predominantly by departments or agencies of the United States.

Subpart G—Codes for Reporting Listed Electronic Products

§ 1002.61 List of specific product groups.

(a) *Group A.* (1) Lasers and products containing lasers which have a reporting index number N, less than one (1). Reporting index numbers shall be calculated in accordance with Appendix A.

(2) Ultrasonic products.

(3) Microwave heating equipment not listed in paragraph (c) of this section.

(4) High voltage vacuum switches, high voltage rectifier tubes, shunt regulator tubes, and cathode ray tubes which are intended to be operated at voltages greater than 5,000 volts but less than 15,000 volts.

(b) *Group B.* (1) Television receivers which, on or after the effective date of this subpart, meets the Federal standard in effect on June 1, 1971, provided also that the voltage on the cathode ray tube and any other vacuum tube component cannot exceed 15,000 volts under the test conditions required by the Federal standard at that time.

(2) High voltage vacuum switches, high voltage rectifier tubes, shunt regulator tubes, and cathode ray tubes, which are intended to operate at voltages of 15,000 volts or greater.

(c) *Group C.* (1) Products subject to Federal standards prescribed under Parts 1010, 1020, and 1030 of this Subchapter J except for television receivers described in paragraph (b)(1) of this section.

(2) Products which are intended to produce x radiation.

(3) Microwave ovens intended to be used in homes, restaurants, food vending or service establishments, on interstate carriers and in similar locations.

(4) Microwave diathermy machines.

(5) Lasers and products or devices containing lasers which have a reporting index number of N, equal to or greater than one (1). Reporting index numbers shall be calculated in accordance with Appendix A.

APPENDIX A—LASER REPORTING INDEX NUMBER

(a) For laser products, the reporting index number N, shall be calculated using the relation N=BU/A. The appropriate value of B may be determined from Table 1 for a given wave-length. U is the radiant energy in joules (J). For continuous operation, U is the radiant energy per second in the laser emission. For single pulse operation, U is the true radiant energy per pulse. For repetitively pulsed lasers, reporting index numbers will be computed using both energy per pulse and energy per second. When computing the reporting index number using energy per pulse, that value of B corresponding to the pulse duration of the laser emission in Table 1 will be used. When computing the reporting index number using energy per second, that value of B found in the column "continuous to 0.1 sec" of Table 1 will be used.

(b) A, as used in the relation above, is the actual beam area in square centimeters. For parallel or divergent beams, A is measured at 30 centimeters (cm) from the permanent instrument housing[1] at the points of closest approach to the exit port or ports of the laser beam; for convergent beams, A is measured at that distance from the permanent instrument housing which results in a value of N which is maximal.

TABLE 1

Wavelength in micrometers	Values of B for different laser pulse durations		
	Continuous to 0.1 sec	0.1 to 10^{-4} sec	Less than 10^{-4} sec
μm	cm^2/J	cm^2/J	cm^2/J
0.40-0.70	23,000	120,000	2,000,000
0.70-0.90	3,700	20,000	320,000
1.00-1.10	1,100	8,000	100,000
1.20-1.20	100	670	8,000
1.40-1.60	2	17	200
Greater than 1.60	1	10	100

(c) If more than one value of N can be determined for a given product, the largest value shall be used for reporting purposes. When simultaneous emission of more than one wavelength occur, an individual reporting index number shall be calculated for each wavelength. The sum of the individual reporting index numbers shall be used as the

[1] "Permanent instrument housing" means that exterior part of the product, without which the laser beam cannot be produced.

reporting index number for the product. Where N cannot be calculated, a reporting index number of 1,000 shall be used.

PART 1003—NOTIFICATION OF DEFECTS OR FAILURE TO COMPLY

Subpart A—General Provisions

Sec.

Subpart B—Discovery of Defect or Failure to Comply

Subpart C—Notification

Subpart D—Exemptions from Notification Requirements

AUTHORITY: Sec. 359, 82 Stat. 1180; 42 U.S.C. 263g.

Subpart A—General Provisions

§ 1003.1 Applicability.

The provisions of this part are applicable to electronic products which were manufactured after October 18, 1968.

§ 1003.2 Defect in an electronic product.

For the purpose of this part, an electronic product shall be considered to have a defect which relates to the safety of use by reason of the emission of electronic product radiation if:

(a) It is a product which does not utilize the emission of electronic product radiation in order to accomplish its purpose, and from which such emissions are unintended, and as a result of its design, production or assembly (1) it emits electronic product radiation which creates a risk of injury, including genetic injury, to any person, or (2) it fails to conform to its design specifications relating to electronic radiation emissions; or

(b) It is a product which utilizes electronic product radiation to accomplish its primary purpose and from which such emissions are intended, and as a result of its design, production or assembly it (1) fails to conform to its design specifications relating to the emission of electronic product radiation; or (2) without regard to the design specifications of the product, emits electronic product radiation unnecessary to the accomplishment of its primary purpose which creates a risk of injury, including genetic injury to any person; or (3) fails to accomplish the intended purpose.

§ 1003.5 Effect of regulations on other laws.

The remedies provided for in this subchapter shall be in addition to and not in substitution for any other remedies provided by law and shall not relieve any person from liability at common law or under statutory law.

Subpart B—Discovery of Defect or Failure to Comply

§ 1003.10 Discovery of defect or failure of compliance by manufacturer; notice requirements.

Any manufacturer who discovers that any electronic product produced, assembled, or imported by him, which product has left its place of manufacture, has a defect or fails to comply with an applicable Federal standard shall:

(a) Immediately notify the Secretary in accordance with § 1003.20, and

(b) Except as authorized by § 1003.30, furnish notification with reasonable promptness to the following persons:

(1) The dealers or distributors to whom such product was delivered by the manufacturer; and

(2) The purchaser of such product and any subsequent transferee of such product (where known to the manufacturer or where the manufacturer upon reasonable inquiry to dealers, distributors, or purchasers can identify the present user).

§ 1003.11 Determination by Secretary that product fails to comply or has a defect.

(a) If, the Secretary, through testing, inspection, research, or examination of reports or other data, determines that any electronic product does not comply with an applicable Federal standard issued pursuant to the Act or has a defect, he shall immediately notify the manufacturer of the product in writing specifying:

(1) The defect in the product or the manner in which the product fails to comply with the applicable Federal standard;

(2) The Secretary's findings, with references to the tests, inspections, studies, or reports upon which such findings are based;

(3) A reasonable period of time during which the manufacturer may present his views and evidence to establish that there is no failure of compliance or that the alleged defect does not exist or does not relate to safety of use of the product by reason of the emission of electronic product radiation.

(b) Every manufacturer who receives a notice under § 1003.11(a) shall immediately advise the Secretary in writing of the total number of such product units produced and the approximate number of such product units which have left the place of manufacture.

(c) If, after the expiration of the period of time specified in the notice, the Secretary determines that the product has a defect or does not comply with an applicable Federal standard and the manufacturer has not applied for an exemption, he shall direct the manufacturer to furnish the notification to the persons specified in § 1003.10(b) in the manner specified in § 1003.21. The manufacturer shall within 14 days from the date of receipt of such directive furnish the required notification.

Subpart C—Notification

§ 1003.20 Notification by the manufacturer to the Secretary.

The notification to the Secretary required by § 1003.10(a) shall be confirmed in writing and, in addition to other relevant information which the Secretary may require, shall include the following:

(a) Identification of the product or products involved;

(b) The total number of such product units so produced, and the approximate number of such product units which have left the place of manufacture;

(c) The expected usage for the product if known to the manufacturer;

(d) A description of the defect in the product or the manner in which the product fails to comply with an applicable Federal standard;

(e) An evaluation of the hazards reasonably related to defect or the failure to comply with the Federal standard;

(f) A statement of the measures to be taken to repair such defect or to bring the product into compliance with the Federal standard;

(g) The date and circumstances under which the defect was discovered; and

(h) The identification of any trade secret information which the manufacturer desires kept confidential.

§ 1003.21 Notification by the manufacturer to affected persons.

(a) The notification to the persons specified in § 1003.10(b) shall be in writing and, in addition to other relevant information which the Secretary may require, shall include:

(1) The information prescribed by § 1003.20 (a), (d), and instructions with respect to the use of the product pending the correction of the defect;

(2) A clear evaluation in nontechnical terms of the hazards reasonably related to any defect or failure to comply; and

(3) The following statement:

The manufacturer will, without charge, remedy the defect or bring the product into compliance with each applicable Federal standard in accordance with a plan to be approved by the Secretary of Health, Education, and Welfare, the details of which will be included in a subsequent communication to you.

Provided, That if at the time the notification is sent, the Secretary has approved a plan for the repair, replacement or refund of the product, the notification may include the details of the approved plan in lieu of the above statement.

(b) The envelope containing the notice shall not contain advertising or other extraneous material, and such mailings will be made in accordance with this section.

(1) No. 10 white envelopes shall be used, and the name and address of the manufacturer shall appear in the upper left corner of the envelope.

(2) The following statement is to appear in the far left third of the envelope in the type and size indicated and in reverse printing, centered in a red rectangle 3¾ inches wide and 2¼ inches high:

IMPORTANT
ELECTRONIC PRODUCT
RADIATION WARNING

The statement shall be in three lines, all capitals, and centered. "Important" shall be in 36-point Gothic Bold type. "Electronic Product" and "Radiation Warning" shall be in 36-point Gothic Condensed type.

(3) Envelopes with markings similar to those prescribed in this section shall not be used by manufacturers for mailings other than those required by this part.

(c) The notification shall be sent:

(1) By certified mail to purchasers of the product and to subsequent transferees.

(2) By certified mail or other more expeditious means to dealers and distributors.

(d) Where products were sold under a name other than that of the manufacturer of the product, the name of the individual or company under whose name the product was sold may be used in the notification required by this section.

§ 1003.22 Copies of communications sent to purchasers, dealers or distributors.

(a) Every manufacturer of electronic products shall furnish to the Secretary a copy of all notices, bulletins, or other communications sent to the dealers or distributors of such manufacturers or to purchasers (or subsequent transferees) of electronic products of such manufacturer regarding any defect in such product or any failure of such product to comply with an applicable Federal standard.

(b) In the event the Secretary deems the content of such notices to be insufficient to protect the public health and safety, the Secretary may require additional notice to such recipients, or may elect to make or cause to be made such notification by whatever means he deems appropriate.

Subpart D—Exemptions From Notification Requirements

§ 1003.30 Application for exemption from notification requirements.

(a) A manufacturer may at the time of giving the written confirmation required by § 1003.20 or within 15 days of the receipt of any notice from the Secretary pursuant to § 1003.11(a), apply for an exemption from the requirement of notice to the persons specified in § 1003.10(b).

(b) The application for exemption shall contain the information required by § 1003.20 and in addition shall set forth in detail the grounds upon which the exemption is sought.

§ 1003.31 Granting the exemption.

(a) If, in the judgment of the Secretary, the application filed pursuant to § 1003.30 states reasonable grounds for an exemption from the requirement of notice, the Secretary shall give the manufacturer written notice specifying a reasonable period of time during which he may present his views and evidence in support of the application.

(b) Such views and evidence shall be confined to matters relevant to whether the defect in the product or its failure to comply with an applicable Federal standard is such as to create a significant risk of injury, including genetic injury, to any person and shall be presented in writing unless the Secretary determines that an oral presentation is desirable.

(c) If, during the period of time afforded the manufacturer to present his views and evidence, the manufacturer proves to the Secretary's satisfaction that the defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person, the Secretary shall issue an exemption from the requirement of notification to the manufacturer and shall notify the manufacturer in writing specifying:

(1) The electronic product or products for which the exemption has been issued; and

(2) Such conditions as the Secretary deems necessary to protect the public health and safety.

PART 1004—REPURCHASE, REPAIRS, OR REPLACEMENT OF ELECTRONIC PRODUCTS

Sec.

AUTHORITY: Sec. 359, 82 Stat. 1180; 42 U.S.C. 263g.

§ 1004.1 Manufacturer's obligation to repair, replace, or refund cost of electronic products.

(a) If any electronic product fails to comply with an applicable Federal standard or has a defect and the notification specified in § 1003.10(b) of this chapter is required to be furnished, the manufacturer of such product shall (1) without charge, bring such product into conformity with such standard or remedy such defect and provide reimbursement for any expenses for transportation of such product incurred in connection with having such product brought into conformity or having such defect remedied; or (2) replace such product with a like or equivalent product which complies with each applicable Federal standard and which has no defect relating to the safety of its use; or (3) make a refund of the cost of the product to the purchaser.

(b) The manufacturer shall take the action required by this section in accordance with a plan approved by the Secretary pursuant to § 1004.6 of this part.

§ 1004.2 Plans for the repair of electronic products.

Every plan for bringing an electronic product into conformity with applicable Federal standards or for remedying any defect in such product shall be submitted to the Secretary in writing, and in addition to other relevant information which the Secretary may require, shall include:

(a) Identification of the product involved.

(b) The approximate number of defective product units which have left the place of manufacture.

(c) The specific modifications, alterations, changes, repairs, corrections, or adjustments to be made to bring the product into conformity or remedy any defect.

(d) The manner in which the operations described in paragraph (c) will be accomplished, including the procedure for obtaining access to, or possession of, the products and the location where such operations will be performed.

(e) The technical data, test results or studies demonstrating the effectiveness of the proposed remedial action.

(f) A time limit, reasonable in light of the circumstances, for completion of the operations.

(g) The system by which the manufacturer will provide reimbursement for any transportation expenses incurred in connection with having such product brought into conformity or having any defect remedied.

(h) The text of the statement which the manufacturer will send to the persons specified in § 1003.10(b) of this chapter informing such persons (1) that the manufacturer, at his expense, will repair the electronic product involved, (2) of the method by which the manufacturer will obtain access to or possession of the product to make such repairs, (3) that the manufacturer will reimburse such persons for any transportation expenses incurred in connection with making such repairs, and (4) of the manner in which such reimbursement will be effected.

(i) An assurance that the manufacturer will provide the Secretary with progress reports on the effectiveness of the plan, including the number of electronic products repaired.

§ 1004.3 Plans for the replacement of electronic products.

Every plan for replacing an electronic product with a like or equivalent product shall be submitted to the Secretary in writing, and in addition to other relevant information which the Secretary may require, shall include:

(a) Identification of the product to be replaced.

(b) A description of the replacement product in sufficient detail to support the manufacturer's contention that the replacement product is like or equivalent to the product being replaced.

(c) The approximate number of defective product units which have left the place of manufacture.

(d) The manner in which the replacement operation will be effected including the procedure for obtaining possession of the product to be replaced.

(e) A time limit, reasonable, in light of the circumstances for completion of the replacement.

(f) The steps which the manufacturer will take to insure that the defective product will not be reintroduced into commerce, until it complies with each applicable Federal standard and has no defect relating to the safety of its use.

(g) The system by which the manufacturer will provide reimbursement for any expenses for transportation of such product incurred in connection with effecting the replacement.

(h) The text of the statement which the manufacturer will send to the persons specified in § 1003.10(b) of this chapter informing such persons (1) that the manufacturer, at its expense, will replace the electronic product involved, (2) of the method by which the manufacturer will obtain possession of the product and effect the replacement, (3) that the manufacturer will reimburse such persons for any transportation expenses incurred in connection with effecting such replacement, and (4) of the manner in which such reimbursement will be made.

(i) An assurance that the manufacturer will provide the Secretary with progress reports on the effectiveness of the plan, including the number of electronic products replaced.

§ 1004.4 Plans for refunding the cost of electronic products.

Every plan for refunding the cost of an electronic product shall be submitted to the Secretary in writing, and in addition to other relevant information which the Secretary may require, shall include:

(a) Identification of the product involved.

(b) The approximate number of defective product units which have left the place of manufacture.

(c) The manner in which the refund operation will be effected including the procedure for obtaining possession of the product for which the refund is to be made.

(d) The steps which the manufacturer will take to insure that the defective products will not be reintroduced into commerce, until it complies with each applicable Federal standard and has no defect relating to the safety of its use.

(e) A time limit, reasonable in light of the circumstances, for obtaining the product and making the refund.

(f) A statement that the manufacturer will refund the cost of such product together with the information the manufacturer has used to determine the amount of the refund.

(g) The text of the statement which the manufacturer will send to the persons specified in § 1003.10(b) of this chapter informing such persons (1) that the manufacturer, at his expense, will refund the cost of the electronic product plus any transportation costs, (2) of the amount to be refunded exclusive of transportation costs, (3) of the method by which the manufacturer will obtain possession of the product and make the refund.

(h) An assurance that the manufacturer will provide the Secretary with progress reports on the effectiveness of the plan, including the number of refunds made.

§ 1004.6 Approval of plans.

If, after review of any plan submitted pursuant to this subchapter, the Secretary determines that the action to be taken by the manufacturer will expeditiously and effectively fulfill the manufacturer's obligation under § 1004.1 in a manner designed to encourage the public to respond to the proposal, the Secretary will send written notice of his approval of such plan to the manufacturer. Such approval may be conditioned upon such additional terms as the Secretary deems necessary to protect the public health and safety.

PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS

Subpart A—General Provisions

AUTHORITY: Secs. 215, 356, 58 Stat. 690, 82 Stat. 1174; 42 U.S.C. 216, 263d.

Subpart A—General Provisions

§ 1005.1 Applicability.

(a) The provisions of §§ 1005.1 through 1005.24 are applicable to electronic products which are subject to the standards prescribed in Parts 1010, 1020, and 1030 of this chapter and are offered for importation into the United States.

(b) Section 1005.25 is applicable to every manufacturer of electronic products offering an electronic product for importation into the United States.

§ 1005.2 Definitions.

As used in this part:

The term "owner" or "consignee" means the person who has the rights of a consignee under the provisions of sections 483, 484, and 485 of the Tariff Act of 1930, as amended (19 U.S.C. 1483, 1484, 1485).

§ 1005.3 Importation of noncomplying goods prohibited.

The importation of any electronic product for which standards have been prescribed under section 358 of the Act (42 U.S.C. 268f) shall be refused admission into the United States unless there is affixed to such product a certification in the form of a label or tag in conformity with section 358(h) of the Act (42 U.S.C. 263f(h)). Merchandise refused admission shall be destroyed or exported under regulations prescribed by the Secretary of the Treasury unless a timely and adequate petition for permission to bring the product into compliance is filed and granted under §§ 1005.21 and 1005.22.

Subpart B—Inspection and Testing

§ 1005.10 Notice of sampling.

When a sample of a product to be offered for importation has been requested by the Secretary, the District Director of Customs having jurisdiction over the shipment shall, upon the arrival of the shipment, procure the sample and shall give to its owner or consignee prompt notice of the delivery or of the intention to deliver such sample to the Secretary. If the notice so requires, the owner or consignee will hold the shipment of which the sample is typical and not release such shipment until he receives notice of the results of the tests of the sample from the Secretary, stating that the product is in compliance with the requirements of the Act. The District Director of Customs will be given the results of the tests. If the Secretary notifies the District Director of Customs that the product does not meet the requirements of the Act, the District Director of Customs shall require the exportation or destruction of the shipment in accordance with customs laws.

§ 1005.11 Payment for samples.

The Department of Health, Education, and Welfare will pay for all import samples of electronic products rendered unsalable as a result of testing, or will pay the reasonable costs of repackaging such samples for sale, if the samples are found to be in compliance with the requirements of the Radiation Control for Health and Safety Act of 1968. Billing for reimbursement shall be made by the owner or consignee to the Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852. Payment for samples will not be made if the sample is found to be in violation of the Act, even though subsequently brought into compliance pursuant to terms specified in a notice of permission issued under § 1005.22.

Subpart C—Bonding and Compliance Procedures

§ 1005.20 Hearing.

(a) If, from an examination of the sample or otherwise, it appears that the product may be subject to a refusal of admission, the Secretary shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony unless the owner or consignee indicates his intention to

bring the product into compliance. Upon timely request, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the article and may be introduced orally or in writing.

(b) If the owner or consignee submits or indicates his intention to submit an application for permission to perform such action as is necessary to bring the product into compliance with the Act, such application shall include the information required by § 1005.21.

(c) If the application is not submitted at or prior to the hearing, the Secretary may allow a reasonable time for filing such application.

§ 1005.21 Application for permission to bring product into compliance.

Application for permission to perform such action as is necessary to bring the product into compliance with the Act may be filed only by the owner, consignee, or manufacturer and, in addition to any other information which the Secretary may reasonably require, shall:

(a) Contain a detailed proposal for bringing the product into compliance with the Act;

(b) Specify the time and place where such operations will be effected and the approximate time for their completion; and

(c) Identify the bond required to be filed pursuant to § 1005.23 of this part.

§ 1005.22 Granting permission to bring product into compliance.

(a) When permission contemplated by § 1005.21 is granted, the Secretary shall notify the applicant in writing, specifying:

(1) The procedure to be followed;

(2) The disposition of the rejected articles or portions thereof;

(3) That the operations are to be carried out under the supervision of a representative of the Department of Health, Education, and Welfare;

(4) A reasonable time limit for completing the operations; and

(5) Such other conditions as he finds necessary to maintain adequate supervision and control over the product.

(b) Upon receipt of a written request for an extension of time to complete the operations necessary to bring the product into compliance, the Secretary may grant such additional time as he deems necessary.

(c) The notice of permission may be amended upon a showing of reasonable grounds thereof and the filing of an amended application for permission with the Secretary.

(d) If ownership of a product included in a notice of permission changes before the operations specified in the notice have been completed, the original owner will remain responsible under its bond, unless the new owner has executed a superseding bond on customs Form 7601 and obtained a new notice.

(e) The Secretary will notify the District Director of Customs having jurisdiction over the shipment involved, of the determination as to whether or not the product has in fact been brought into compliance with the Act.

§ 1005.23 Bonds.

The bond required under section 360 (b) of the Act shall be executed by the owner or consignee on the appropriate form of a customs single-entry bond, customs Form 7551 or term bond, customs Form 7553 or 7595, containing a condition for the redelivery of the shipment or any part thereof not complying with the laws and regulations governing its admission into the commerce of the United States upon demand of the District Director of Customs and containing a provision for the performance of any action necessary to bring the product into compliance with all applicable laws and regulations. The bond shall be filed with the District Director of Customs.

§ 1005.24 Costs of bringing product into compliance.

The costs of supervising the operations necessary to bring a product into compliance with the Act shall be paid by the owner or consignee who files an application pursuant to § 1005.21 and executes a bond under section 360(b) of the Act. Such costs shall include:

(a) Travel expenses of the supervising officer;

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station, as provided by law;

(c) Services of the supervising officer to be calculated at a flat rate of $12 per hour (which shall include administrative expense) except that such services performed by a customs officer and subject to the provisions of the Act of February 13, 1911, as amended (section 5, 36 Stat. 901, as amended; 19 U.S.C. 267), shall be calculated as provided by that Act;

(d) The minimum charge for services of supervising officers shall be not less than the charge for 1 hour and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than one-half hour.

§ 1005.25 Service of process on manufacturers.

(a) Every manufacturer of electronic products, prior to offering such product for importation into the United States, shall designate a permanent resident of the United States as the manufacturer's agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for and on behalf of the manufacturer as provided in section 360(d) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263h(d)) and this section. The agent may be an individual, a firm, or a domestic corporation. For purposes of this section, any number of manufacturers may designate the same agent.

(b) The designation shall be addressed to the Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852. It shall be in writing and dated; all signatures shall be in ink. The designation shall be made in the legal form required to make it valid and binding on the manufacturer under the laws, corporate bylaws, or other requirements governing the making of the designation by the manufacturer at the place and time where it is made, and the persons or person signing the designation shall certify that it is so made. The designation shall disclose the manufacturer's full legal name and the name(s) under which he conducts his business, if applicable, his principal place of business, and mailing address. If any of the products of the manufacturer do not bear his legal name, the designation shall identify the marks, trade names, or other designations of origin which these products bear. The designation shall provide that it will remain in effect until withdrawn or replaced by the manufacturer and shall bear a declaration of acceptance duly signed by the designated agent. The full legal name and mailing address of the agent shall be stated. Until rejected by the Secretary, designations are binding on the manufacturer even when not in compliance with all the requirements of this section. The designated agent may not assign performance of his function under the designation to another.

(c) Service of any process, notice, order, requirement, or decision specified in section 360(d) of the Radiation Control for Health and Safety Act of 1968 may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. In the absence of such a designation or if for any reason service on the designated agent cannot be effected, service may be made as provided in section 360(d) by posting such process, notice, order, requirement, or decision in the Office of the Director, Bureau of Radiological Health and publishing a notice that such service was made in the FEDERAL REGISTER.

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

Subpart A—General Provisions

Subpart B—Alternate Test Procedures

Subpart C—Exportation of Electronic Products

AUTHORITY: Sec. 359, 82 Stat. 1177; 42 U.S.C. 263f.

Subpart A—General Provisions

§ 1010.1 Scope.

The standards listed in this part, and Parts 1020 and 1030 of this chapter are prescribed pursuant to section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f) and are applicable to electronic products as specified herein, to control electronic product radiation from such products. Standards so prescribed are subject to amendment or revocation and additional standards may be prescribed as are determined

necessary for the protection of the public health and safety.

§ 1010.2 Certification.

(a) Every manufacturer of an electronic product for which an applicable standard is in effect under Parts 1020 and 1030 of this chapter shall furnish to the dealer or distributor, at the time of delivery of such product, the certification that such product conforms to all applicable standards under Parts 1020 and 1030 of this chapter.

(b) The certification shall be in the form of a label or tag permanently affixed to or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use, unless the applicable standard prescribes some other manner of certification.

(c) Such certification shall be based upon a test, in accordance with the standard, of the individual article to which it is attached or upon a testing program which is in accordance with good manufacturing practices. The Secretary may disapprove such a testing program on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standard prescribed under Parts 1020 and 1030 of this chapter.

(d) In the case of products for which it is not feasible to certify in accordance with paragraph (b) of this section, upon application by the manufacturer, the Secretary may approve an alternate means by which such certification may be provided.

§ 1010.3 Identification.

(a) Every manufacturer of an electronic product to which a standard under Parts 1020 and 1030 of this chapter is applicable shall set forth the information specified in subparagraphs (1) and (2) of this paragraph. This information shall be provided in the form of a tag or label permanently affixed or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use or in such other manner as may be prescribed in the applicable standard.

(1) The full name and address of the manufacturer of the product: Abbreviations such as "Co.," "Inc.," or their foreign equivalents and the first and middle initials of individuals may be used. Where products are sold under a name other than that of the manufacturer of the product, the full name and address of the individual or company under whose name the product was sold may be set forth, provided such individual or company has previously supplied the Secretary with sufficient information to identify the manufacturer of the product.

(2) The month, year, and place of manufacture: This information may be expressed in code provided the manufacturer has previously supplied the Secretary with the key to such code.

(b) In the case of products for which it is not feasible to affix identification labeling in accordance with paragraph (a) of this section, upon application by the manufacturer, the Secretary may approve an alternate means by which such identification may be provided.

(c) Every manufacturer of an electronic product to which is applicable a standard under Parts 1020 and 1030 of this chapter shall provide the Secretary with a list identifying each brand name which is applied to the product together with the full name and address of the individual or company for whom each product so branded is manufactured.

Subpart B—Alternate Test Procedures

§ 1010.13 Special test procedures.

The Secretary may, on the basis of a written application by a manufacturer, authorize test programs other than those set forth in the standard for an electronic product if he determines that such products are not susceptible to satisfactory testing by the procedures set forth in the standard and that the alternative test procedures assure compliance with the standard.

Subpart C—Exportation of Electronic Products

§ 1010.20 Electronic products intended for export.

The performance standard prescribed in Parts 1020 and 1030 of this chapter shall not apply to any electronic product which is intended solely for export if (a) such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and (b) such product meets all the applicable requirements of the country to which such product is intended for export.

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

Sec.

AUTHORITY: Sec. 358, 82 Stat. 1177; 42 U.S.C. 263f.

§ 1020.10 Television receivers.

(a) *Applicability.* The provisions of this section are applicable to television receivers manufactured subsequent to January 15, 1970.

(b) *Definitions.* (1) "External surface" means the cabinet or enclosure provided by the manufacturer as part of the receiver. If a cabinet or enclosure is not provided as part of the receiver, the external surface shall be considered to be a hypothetical cabinet, the plane surfaces of which are located at those minimum distances from the chassis sufficient to enclose all components of the receiver except that portion of the neck and socket of the cathode-ray tube which normally extends beyond the plane surfaces of the enclosure.

(2) "Maximum test voltage" means 130 root mean square volts if the receiver is designed to operate from nominal 110 to 120 root mean square volt power sources. If the receiver is designed to operate from a power source having some voltage other than from nominal 110 to 120 root mean square volts, maximum test voltage means 110 percent of the nominal root mean square voltage specified by the manufacturer for the power source.

(3) "Service controls" means all of those controls on a television receiver provided by the manufacturer for purposes of adjustment which, under normal usage, are not accessible to the user.

(4) "Television receiver" means an electronic product designed to receive and display a television picture through broadcast, cable, or closed circuit television.

(5) "Usable picture" means a picture in synchronization and transmitting viewable intelligence.

(6) "User controls" means all of those controls on a television receiver, provided by the manufacturer for purposes of adjustment, which on a fully assembled receiver under normal usage, are accessible to the user.

(c) *Requirements*—(1) *Exposure rate limit.* Radiation exposure rates produced by a television receiver shall not exceed 0.5 milliroentgens per hour at a distance of five (5) centimeters from any point on the external surface of the receiver, as measured in accordance with this section.

(2) *Measurements.* Compliance with the exposure rate limit defined in subparagraph (1) of this paragraph shall be determined by measurements made with an instrument, the radiation sensitive volume of which shall have a cross section parallel to the external surface of the receiver with an area of ten (10) square centimeters and no dimension larger than five (5) centimeters. Measurements made with instruments having other areas must be corrected for spatial nonuniformity of the radiation field to obtain the exposure rate average over a ten (10) square centimeter area.

(3) *Test conditions.* All measurements shall be made with the receiver displaying a usable picture and with the power source operated at supply voltages up to the maximum test voltage of the receiver and, as applicable, under the following specific conditions:

(i) On television receivers manufactured subsequent to January 15, 1970, measurements shall be made with all user controls adjusted so as to produce maximum x-radiation emissions from the receiver.

(ii) On television receivers manufactured subsequent to June 1, 1970, measurements shall be made with all user controls and all service controls adjusted to combinations which result in the production of maximum x-radiation emissions.

(iii) On television receivers manufactured subsequent to June 1, 1971, measurements shall be made under the conditions described in subdivision (ii) of this subparagraph, together with condi-

tions identical to those which result from that component or circuit failure which maximizes x-radiation emissions.

(4) *Critical component warning.* The manufacturer shall permanently affix or inscribe a warning label, clearly legible under conditions of service, on all television receivers which could produce radiation exposure rates in excess of the requirements of this section as a result of failure or improper adjustment or improper replacement of a circuit or shield component. The warning label shall include the specification of operating high voltage and an instruction for adjusting the high voltage to the specified value.

§ 1020.20 Cold-cathode gas discharge tubes.

(a) *Applicability.* The provisions of this section are applicable to cold-cathode gas discharge tubes designed to demonstrate the effects of a flow of electrons or the production of x radiation as specified herein.

(b) *Definitions.* "Beam blocking device" means a movable or removable portion of any enclosure around a cold-cathode gas discharge tube, which may be opened or closed to permit or prevent the emergence of an exit beam.

"Cold-cathode gas discharge tube" means an electronic device in which electron flow is produced and sustained by ionization of contained gas atoms and ion bombardment of the cathode.

"Exit beam" means that portion of the radiation which passes through the aperture resulting from the opening of the beam blocking device.

"Exposure" means the sum of the electrical charges on all of the ions of one sign produced in air when all electrons liberated by photons in a volume element of air are completely stopped in air divided by the mass of the air in the volume element. The special unit of exposure is the roentgen. One (1) roentgen equals 2.58×10^{-4} coulombs/kilogram.

(c) *Requirements.* (1) Exposure rate limit:

(i) Radiation exposure rates produced by cold-cathode gas discharge tubes shall not exceed 10 mR./hr. at a distance of thirty (30) centimeters from any point on the external surface of the tube, as measured in accordance with this section.

(ii) The divergence of the exit beam from tubes designed primarily to demonstrate the effects of x radiation, with the beam blocking device in the open position, shall not exceed π (Pi) steradians.

(2) Measurements:

(i) Compliance with the exposure rate limit defined in (c)(1)(i) shall be determined by measurements averaged over an area of one hundred (100) square centimeters with no linear dimension greater than twenty (20) centimeters.

(ii) Measurements of exposure rates from tubes in enclosures from which the tubes cannot be removed without destroying the function of the tube may be made at a distance of thirty (30) centimeters from any point on the external surface of the enclosure, provided:

(a) In the case of enclosures containing tubes designed primarily to demonstrate the production of x radiation, measurements shall be made with any beam blocking device in the beam blocking position, or

(b) In the case of enclosures containing tubes designed primarily to demonstrate the effects of a flow of electrons, measurements shall be made with all movable or removable parts of such enclosure in the position which would maximize external exposure levels.

(3) Test conditions:

(i) Measurements shall be made under the conditions of use specified in instructions provided by the manufacturer.

(ii) Measurements shall be made with the tube operated under forward and reverse polarity.

(4) Instructions, labels, and warnings:

(i) Manufacturers shall provide, or cause to be provided, with each tube to which this section is applicable, appropriate safety instructions, together with instructions for the use of such tube, including the specification of a power source for use with the tube.

(ii) Each enclosure or tube shall have inscribed on or permanently affixed to it, tags or labels, which identify the intended polarity of the terminals and: (a) In the case of tubes designed primarily to demonstrate the heat effect, fluorescence effect, or magnetic effect, a warning that application of power in excess of that specified may result in the production of x rays in excess of allowable limits; and (b) in the case of tubes designed primarily to demonstrate the production of x radiation, a warning that this device produces x rays when energized.

(iii) The tag or label required by this paragraph shall be located on the tube or enclosure so as to be readily visible and legible when the product is fully assembled for use.

§ 1020.30 Diagnostic x-ray systems and their major components.

(a) *Applicability.* The provisions of this section and §§ 1020.31 and 1020.32 are applicable as specified herein to:

(1) The following components of diagnostic x-ray systems which are manufactured after August 1, 1974. Tube housing assemblies, x-ray controls, x-ray high-voltage generators, fluoroscopic imaging assemblies, tables, cradles, film changers, casette holders, and beam-limiting devices; and

(2) Diagnostic x-ray systems incorporating one or more of such components; however, such x-ray systems shall be required to comply only with those provisions of this section and §§ 1020.31 and 1020.32 which relate to the components certified in accordance with paragraph (c) of this section and installed into the systems.

(b) *Definitions.* As used in this section and §§ 1020.31 and 1020.32, the following definitions apply:

(1) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Aluminum equivalent" means the thickness of aluminum (type 1100 alloy)[1] affording the same attenuation, under specified conditions, as the material in question.

(3) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

(4) "Attenuation block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of type 1100 aluminum alloy or aluminum alloy having equivalent attenuation.

(5) "Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation.

(6) "Beam axis" means a line from the source through the centers of the x-ray fields.

(7) "Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

(8) "Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations. It is estimated using the following equation:

$$C=\frac{s}{\bar{X}}=\frac{1}{\bar{X}}\left[\sum_{i=1}^{n}\frac{(X_i-\bar{X})^2}{n-1}\right]^{\frac{1}{2}}$$

where

s = Estimated standard deviation of the population.

$\bar{X}$ = Mean value of observations in sample.

X_i = ith observation sampled.

n = Number of observations sampled.

(9) "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors.

(10) "Cooling curve" means the graphical relationship between heat units stored and cooling time.

(11) "Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

(12) "Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.

(13) "Equipment" means x-ray equipment.

(14) "Exposure" means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass dm are completely stopped in air.

(15) "Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the

[1] The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper, as given in "Aluminum Standards and Data" (1969). Copies may be obtained from: The Aluminum Association, New York, NY.

cathode is due solely to the action of an electric field.

(16) "Fluoroscopic imaging assembly" means a component which comprises a reception system in which x-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(17) "General purpose radiographic x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(18) "Half-value layer, HVL" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(19) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.

(20) "Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

(i) The useful beam and

(ii) Radiation produced when the exposure switch or timer is not activated.

(21) "Leakage technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

(i) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger.

(ii) For field emission equipment rated for pulsed operation, the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential.

(iii) For all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(22) "Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(23) "Line-voltage regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential; that is,

$$\text{Percent line-voltage regulation} = 100(V_n - V_l)/V_l$$

where

V_n=No-load line potential and
V_l=Load line potential.

(24) "Maximum line current" means the rms current in the supply line of an x-ray machine operating at its maximum rating.

(25) "Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

(26) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

(27) "Rated line voltage" means the range of potentials, in volts, of the supply line specified by the manufacturer at which the x-ray machine is designed to operate.

(28) "Rated output current" means the maximum allowable load current of the x-ray high-voltage generator.

(29) "Rated output voltage" means the allowable peak potential, in volts, at the output terminals of the x-ray high-voltage generator.

(30) "Rating" means the operating limits specified by the manufacturer.

(31) "Recording" means producing a permanent form of an image resulting from x-ray photons (e.g., film, video tape).

(32) "Response time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero sufficient to provide a steady state midscale reading.

(33) "Source" means the focal spot of the x-ray tube.

(34) "Source-image receptor distance, (SID)" means the distance from the source to the center of the input surface of the image receptor.

(35) "Stationary equipment" means equipment which is installed in a fixed location.

(36) "Technique factors" means the conditions of operation. They are specified as follows:

(i) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.

(ii) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(iii) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(37) "Tube" means an x-ray tube, unless otherwise specified.

(38) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when they are contained within the tube housing.

(39) "Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(40) "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.

(41) "Variable-aperture beam-limiting device" means a beam-limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

(42) "Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons produce a visible image.

(43) "X-ray control" means a device which controls input power to the x-ray high-voltage generator and/or the x-ray tube. It includes equipment which controls the technique factors of an x-ray exposure.

(44) "X-ray equipment" means an x-ray system, subsystem, or component thereof.

(45) "X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(46) "X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices, and other appropriate elements.

(47) "X-ray system" means an assemblage of components for the controlled production of x rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(48) "X-ray subsystem" means any combination of two or more components of an x-ray system for which there are requirements specified in this section and §§ 1020.31 and 1020.32.

(49) "X-ray tube" means any electron tube which is designed for the conversion of electrical energy into x-ray energy.

(c) *Certification of components.* Each component subject to this section and §§ 1020.31 and 1020.32 shall be certified by the manufacturer thereof as a product which meets all applicable standards in accordance with the provisions of § 1010.2 of this chapter. Certification that the product conforms to all applicable standards under this part shall be construed to mean that the component can meet the applicable provisions of this section and §§ 1020.31 and 1020.32 if installed in a diagnostic x-ray system in accordance with instructions.

(d) *Certification by assembler.* An assembler who installs one or more components certified as required by paragraph (c) of this section into an x-ray system shall install certified components that are of the type required by § 1020.31 or § 1020.32 and, except as provided for in subparagraph (2) of this paragraph, shall assemble, install, adjust, and test the certified components in accordance with the instructions of their respective

manufacturers. All assemblers who install certified components shall file a report of such assembly as specified in subparagraphs (1) and (2) of this paragraph. The report shall be construed as the assembler's certification and identification under §§ 1010.2 and 1010.3 of this chapter. All assembler reports shall be on a form prescribed by and available from the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20852. Completed reports shall be submitted to the Director, the purchaser, and, where applicable, to the State agency responsible for radiation protection, within 15 days following completion of the assembly.

(1) *Reporting compliance.* An assembler who installs one or more certified components into an x-ray system or subsystem, having properly followed the assembly instructions provided him by the component manufacturer, shall certify to this by filing a report containing the information prescribed on the form which shall include the following:

(i) The full name and address of the assembler and the date of assembly or installation.

(ii) The name and address of the purchaser and the location and specific identification of the x-ray system or subsystem.

(iii) An affirmation that all instruction manuals and other information as required by paragraph (h) of this section applicable to the newly installed x-ray equipment have been delivered to the purchaser.

(iv) A statement of the type and intended use of the x-ray system or subsystem into which the certified components were assembled or installed, such as "radiographic—stationary general purpose."

(v) A list of all certified components which were assembled or installed by him into the x-ray system or subsystem in accordance with the instructions of the component manufacturers, identifying the components by type, manufacturer, model number, and serial number.

(vi) An affirmation that the certified components listed pursuant to subdivision (v) of this subparagraph were assembled according to the instructions provided by the manufacturer(s) of such components.

(vii) An affirmation that all certified components installed in the x-ray system or subsystem were of the type required by § 1020.31 or § 1020.32.

(viii) An affirmation that a copy of this report will be transmitted to the purchaser and, where applicable, to the State agency responsible for radiation protection, in accordance with the requirements of this paragraph.

(2) *Reporting noncompatibility.* An assembler who installs a certified component into an x-ray system shall file a report indicating noncompatibility if he is unable to follow the instructions of the manufacturer of such certified component, provided other component(s) of the system do not meet the manufacturer's specifications for compatibility as given by the certified component manufacturer pursuant to paragraph (g) of this section and provided there is no commercially available certified component of a similar type which is compatible with the x-ray system. In addition, the component(s) of the system not meeting the specification for compatibility must either be of a type listed in paragraph (a) (1) of this section which does not bear a certification label due to date of manufacture, or if it is a component not of the type listed in paragraph (a) (1) of this section, it must have been purchased as new prior to August 1, 1974. No assembler shall perform any modification of a certified component which will adversely affect the performance of the certified component with respect to the requirements of this section and §§ 1020.31 and 1020.32. The assembler shall file a report indicating noncompatibility containing information prescribed on the form which shall include the following:

(i) The full name and address of the assembler and the date of assembly or installation.

(ii) The name and address of the purchaser and the location and specific identification of the x-ray system or subsystem.

(iii) An affirmation that all instruction manuals and other information as required by paragraph (h) of this section applicable to the newly installed x-ray equipment have been delivered to the purchaser.

(iv) A statement of the type or intended use of the x-ray system or subsystem into which the certified components were assembled or installed, such as "radiographic—stationary general purpose."

(v) A list of all certified component(s) which were assembled or installed by him into the x-ray system or subsystem and which could not be assembled, installed, adjusted, and tested in accordance with the manufacturer's instructions due to reasons specified in this subparagraph (this paragraph (d) (2)), identifying the components by type, manufacturer, model number, and serial number.

(vi) An affirmation that the certified component(s) listed pursuant to subdivision (v) of this subparagraph could not be assembled, installed, adjusted, and tested in accordance with the installation instructions of their respective manufacturers due to reasons specified in this subparagraph (this paragraph (d) (2)), and that no certified component was modified so as to adversely affect its performance with respect to the requirements of this section and §§ 1020.31 and 1020.32.

(vii) For each certified component listed pursuant to subdivision (v) of this subparagraph, a full and complete explanation of why the manufacturer's installation instructions could not be followed in performing the assembly, including a listing by type, manufacturer, and model number of the incompatible component(s) already in the system, and either evidence of its date of purchase as new if it is not a type of component listed in paragraph (a) (1) of this section, or if it is a type of component listed in paragraph (a) (1) of this section, a statement that it did not bear a certification label due to its date of manufacture.

(viii) An affirmation that all certified components installed in the x-ray system or subsystem were of the type required by § 1020.31 or § 1020.32.

(ix) An affirmation that a copy of this report will be transmitted to the purchaser and, where applicable, to the State agency responsible for radiation protection, in accordance with the requirements of this paragraph.

(e) *Identification of x-ray components.* In addition to the identification requirements specified in § 1010.3 of this chapter, manufacturers of components subject to this section and §§ 1020.31 and 1020.32, except high-voltage generators contained within tube housings, and beam-limiting devices which are integral parts of tube housings, shall permanently inscribe or affix thereon the model number and serial number of the product, so as to be legible and accessible to view.

(1) *Tube housing assemblies.* In a similar manner, manufacturers of tube housing assemblies shall also inscribe or affix thereon the name of the manufacturer, model number, and serial number of the x-ray tube which the tube housing assembly incorporates.

(2) *Replacement of tubes.* The replacement of an x-ray tube in a previously manufactured tube housing assembly shall constitute manufacture of a new tube housing assembly and the manufacturer shall be subject to the provisions of subparagraph (1) of this paragraph. The manufacturer shall remove, cover, or deface any previously affixed inscriptions, tags, or labels which are no longer applicable.

(f) *Limits of responsibility*—(1) *Manufacturer.* The manufacturer of a certified component installed or assembled into an x-ray system or subsystem by another person shall not be liable for the noncompliance of such component which is attributable solely to the improper installation or assembly of the component into the system, but shall be held responsible for noncompliance if improper assembly was a result of inadequate instructions provided by such component manufacturer.

(2) *Assembler.* The person who certified as to the assembly of an x-ray system or subsystem shall not be liable for noncompliance of a certified component if such assembly is in accordance with the instructions provided by the manufacturer of the component, but shall be held responsible for noncompliance of a component which is attributable solely to improper assembly or installation into the system or subsystem.

(g) *Information to be provided to assemblers.* Manufacturers of components listed in paragraph (a) (1) of this section shall provide to assemblers subject to paragraph (d) of this section and, upon request, to others at a cost not to exceed the cost of publication and distribution, instructions for assembly, installation, adjustment, and testing

of such components adequate to assure that the products will comply with applicable provisions of this section and §§ 1020.31 and 1020.32 when assembled, installed, adjusted, and tested as directed. Such instructions shall include specifications of other components compatible with that to be installed when compliance of the system or subsystem depends on their compatibility. Such specifications may describe pertinent physical characteristics of the components and/or may list by manufacturer model number the components which are compatible.

(h) *Information to be provided for users.* Manufacturers of x-ray equipment shall provide for purchasers and, upon request, to others at a cost not to exceed the cost of publication and distribution, manuals or instruction sheets which shall include the following technical and safety information:

(1) *All x-ray equipment.* For x-ray equipment to which this section and §§ 1020.31 and 1020.32 are applicable, there shall be provided:

(i) Adequate instructions concerning any radiological safety procedures and precautions which may be necessary because of unique features of the equipment and

(ii) A schedule of the maintenance necessary to keep the equipment in compliance with this section and §§ 1020.31 and 1020.32.

(2) *Tube housing assemblies.* For each tube housing assembly, there shall be provided:

(i) Statements of the maximum rated peak tube potential, leakage technique factors, the minimum filtration permanently in the useful beam expressed as millimeters of aluminum equivalent, and the peak tube potential at which the aluminum equivalent was obtained;

(ii) Cooling curves for the anode and tube housing; and

(iii) Tube rating charts.

If the tube is designed to operate from different types of x-ray high-voltage generators (such as single-phase self-rectified, single-phase half-wave rectified, single-phase full-wave rectified, three-phase six pulse, three-phase 12 pulse, constant potential, capacitor energy storage) or under modes of operation such as alternate focal spot sizes or speeds of anode rotation which affect its rating, specific identification of the difference in ratings shall be noted.

(3) *X-ray controls and generators.* For the x-ray control and associated x-ray high-voltage generator, there shall be provided:

(i) A statement of the rated line voltage and the range of line-voltage regulation for operation at maximum line current;

(ii) A statement of the maximum line current of the x-ray system based on the maximum input voltage and current characteristics of the tube housing assembly compatible with rated output voltage and rated output current characteristics of the x-ray control and associated high-voltage generator. If the rated input voltage and current characteristics of the tube housing assembly are not known by the manufacturer of the x-ray control and associated high-voltage generator, he shall provide necessary information to allow the purchaser to determine the maximum line current for his particular tube housing assembly(s);

(iii) A statement of the technique factors that constitute the maximum line current condition described in subdivision (ii) of this subparagraph;

(iv) In the case of battery-powered generators, a specification of the minimum state of charge necessary for proper operation;

(v) Generator rating and duty cycle;

(vi) A statement of the maximum deviation from the indication given by labeled control settings and/or meters during any exposure when the equipment is connected to a power supply as described in accordance with this paragraph. In the case of fixed technique factors, the maximum deviation from the nominal fixed value of each factor shall be stated; and

(vii) A statement defining the measurement basis (or bases) upon which the exposure time, peak tube potential, tube current, and/or other technique factors are stated pursuant to subdivisions (iii) and (vi) of this subparagraph.

(4) *Variable-aperture beam-limiting device.* For each variable-aperture beam-limiting device, there shall be provided:

(i) Specifications of tube housing assemblies for which the device is designed or is compatible with respect to the requirements of paragraph (k) of this section and §§ 1020.31(d) and (e); and

(ii) A statement including the minimum aluminum equivalent of that part of the device through which the useful beam passes and including the x-ray tube potential at which the aluminum equivalent was obtained. When two or more filters are provided as part of the device, the statement shall include the aluminum equivalent of each filter.

(i) *Variances*—(1) *Criteria for variances.* Upon application by a manufacturer (including assembler), the Director, Bureau of Radiological Health, may grant a variance from one or more provisions of this section and §§ 1020.31 and 1020.32 applicable to any diagnostic x-ray system, subsystem, or component when he determines that the granting of such variance is in keeping with the purposes of the Act and that the requested variance:

(i) Is designed to have identifiable technical advantages and is to be used either as a prototype or experimental equipment for clinical evaluation, or

(ii) Is required for obtaining diagnostic information not obtainable with equipment meeting all the requirements of this section and §§ 1020.31 and 1020.32, or

(iii) Utilizes alternate means for providing protection at least equal to that provided by equipment which conforms to this section and §§ 1020.31 and 1020.32.

(2) *Applications for variances.* Applications for variances shall be submitted to the Director, Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, and shall include the following information:

(i) A description of the product and its intended use,

(ii) An explanation of how compliance with this section and §§ 1020.31 and 1020.32 would restrict this intended use,

(iii) A description of the manner in which it is proposed to deviate from the requirements of this section and §§ 1020.31 and 1020.32,

(iv) A description of the advantages to be derived from such deviation,

(v) An explanation of how alternate means of protection will be provided,

(vi) The number of units the applicant wishes to manufacture and/or for what period of time it is desired that the variance be in effect, and

(vii) In the case of prototype or experimental equipment, the proposed location of each unit.

(3) *Administration of variances.* (i) Written notification will be provided by the Director, Bureau of Radiological Health, to the manufacturer of the granting or refusal of a variance. Notification of an approved variance will state the number of units for which the variance is approved and/or the termination date of the variance. Variances will be identified by a number and date of issuance.

(ii) A public file of approved variances and information related to pending actions will be maintained by the Director, Bureau of Radiological Health, and, where applicable, affected State radiation regulatory authorities will be notified of action with respect to variances. Information containing trade secrets will be administered in accordance with the provisions of section 360A(e) of the Act.

(iii) After reasonable notice to the manufacturer and opportunity for a hearing, the variance will be withdrawn if the Director, Bureau of Radiological Health, deems that such withdrawal is necessary to protect the public health.

(iv) In the event that the Director, Bureau of Radiological Health, determines that an imminent public health hazard is presented by the continuation of a variance, he shall immediately withdraw such variance after due notification to the manufacturer. Such withdrawal shall not prejudice a manufacturer's opportunity for a hearing following the withdrawal.

(4) *Certification of equipment covered by variance.* The manufacturer of any diagnostic x-ray equipment for which a variance is granted shall modify the tag, label, or other certification required by §§ 1010.2 and 1010.3 of this chapter, or this section and §§ 1020.31 and 1020.32 to state:

(i) That the item is in conformity with this section and §§ 1020.31 and 1020.32 except with respect to those characteristics covered by the variance;

(ii) That the item is in conformity with the provisions of the variance; and

(iii) The assigned number of the variance and date assigned.

(j) *Warning label.* The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(k) *Leakage radiation from the diagnostic source assembly.* The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source shall not exceed 100 milliroentgens in 1 hour when the x-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(l) *Radiation from components other than the diagnostic source assembly.* The radiation emitted by a component other than the diagnostic source assembly shall not exceed 2 milliroentgens in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(m) *Beam quality*—(1) *Half-value layer.* The half-value layer (HVL) of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table I.

TABLE I

Design operating range (Kilovolts peak)	Measured potential (Kilovolts peak)	Half-value layer (Millimeters of aluminum)
Below 50	30	0.3
	40	0.4
	49	0.5
50 to 70	50	1.2
	60	1.3
	70	1.5
Above 70	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2
	130	3.5
	140	3.8
	150	4.1

If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made. Positive means[2] shall be provided to insure that at least the minimum filtration needed to achieve the above beam quality requirements is in the useful beam during each exposure.

(2) *Measuring compliance.* For capacitor energy storage equipment, compliance shall be determined with the maximum quantity of charge per exposure.

(n) *Aluminum equivalent of material between patient and image receptor.* The aluminum equivalent of each of the items listed in Table II, which are used between the patient and image receptor, shall not exceed the indicated limits. Compliance shall be determined by x-ray measurements made at a potential of 100 kilovolts peak and with an x-ray beam which has a half-value layer of 2.7 millimeters of aluminum. This requirement is applicable to front panel(s) of cassette holders and film changers provided by the manufacturer for purposes of patient support and/or to prevent foreign object intrusions. It does not apply to such items as a screen and its associated mechanical support panel or grids.

TABLE II

Item	Aluminum equivalent (millimeters)
Front panel(s) of cassette holder (total of all)	1.0
Front panel(s) of film changer (total of all)	1.0
Stationary tabletop	1.0
Moveable tabletop (including stationary subtop)	1.5
Cradle	2.0

(o) *Battery charge indicator.* On battery-powered generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

§ 1020.31 Radiographic equipment.

The provisions of this section apply to equipment for the recording of images, except those involving use of an image intensifier.

(a) *Control and indication of technique factors*—(1) *visual indication.* The technique factors to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls are used, in which case the technique factors which are set prior to the exposure shall be indicated. On equipment having fixed technique factors, this requirement may be met by permanent markings. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(2) *Timers.* Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(i) Except during serial radiography, the operator shall be able to terminate the exposure at any time during an exposure of greater than one-half second. Termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero. It shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.

(ii) During serial radiography, the operator shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(3) *Automatic exposure controls.* When an automatic exposure control is provided:

(i) Indication shall be made on the control panel when this mode of operation is selected;

(ii) When the x-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses and the minimum exposure time for all other equipment shall be equal to or less than 1/60 second or a time interval required to deliver 5 mAs, whichever is greater;

(iii) Either the product of peak x-ray tube potential, current, and exposure time shall be limited to not more than 60 kWs per exposure or the product of x-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure except when the x-ray tube potential is less than 50 kVp in which case the product of x-ray tube current and exposure time shall be limited to not more than 2000 mAs per exposure; and

(iv) A visible signal shall indicate when an exposure has been terminated at the limits described in subdivision (iii) of this subparagraph, and manual resetting shall be required before further automatically timed exposures can be made.

(4) *Accuracy.* Deviation of technique factors from indicated values shall not exceed the limits given in the information provided in accordance with § 1020.30(h)(3).

(b) *Reproducibility.* The following requirements shall apply when the equipment is operated on an adequate power supply as specified by the manufacturer in accordance with the requirements of § 1020.30(h)(3):

(1) *Coefficient of variation.* For any specific combination of selected technique factors, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05.

(2) *Measuring compliance.* Determination of compliance shall be based on 10 consecutive measurements taken within a time period of 1 hour. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation shall be within ±1 of the mean value for all measurements. In the case of automatic exposure controls, compliance shall be determined with the attenuation block placed in the primary beam, and the technique factors shall be such as to provide individual exposures of a minimum of 12 pulses on field emission equipment rated for pulsed operation or no less than one-tenth second per exposure on all other equipment.

(c) *Linearity.* The following requirement applies when the equipment allows a choice of x-ray tube current settings and is operated on a power supply as

[2] In the case of a system which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlock with the kilovoltage selector which will prevent x-ray emission if the minimum required filtration is not in place.

specified by the manufacturer in accordance with the requirements of § 1020.30 (h) (3) for any fixed x-ray tube potential within the range of 40 percent to 100 percent of the maximum rated.

(1) *Average exposure ratios.* The average ratios of exposure to the indicated milliampere-seconds product (mR/mAs) obtained at any two consecutive tube current settings shall not differ by more than 0.10 times their sum. This is:

$|\bar{X}_1-\bar{X}_2| \leq 0.10\ (\bar{X}_1+\bar{X}_2)$; where $\bar{X}_1$ and $\bar{X}_2$ are the average mR/mAs values obtained at each of two consecutive tube current settings.

(2) *Measuring compliance.* Determination of compliance will be based on 10 exposures at each of two consecutive x-ray tube current settings made within 1 hour. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation at any one combination of technique factors shall be within ±1 of the mean value for all measurements at these technique factors. Where tube current selection is continuous, $\bar{X}_1$ and $\bar{X}_2$ shall be obtained at current settings differing by no greater than a factor of 2.

(d) *Field limitation and alignment for mobile and stationary general purpose x-ray systems.* Except when spot-film devices are used, mobile and stationary general purpose radiographic x-ray systems shall meet the following requirements:

(1) *Variable x-ray field limitation.* There shall be provided a means for stepless adjustment of the size of the x-ray field. The minimum field size at an SID of 100 centimeters shall be equal to or less than 5 by 5 centimeters.

(2) *Visual definition.* (i) Means shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field shall not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.

(ii) When a light localizer is used to define the x-ray field, it shall provide an average illumination of not less than 160 lux (15 footcandles) at 100 centimeters or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field.

(iii) The edge of the light field at 100 centimeters or at the maximum SID, whichever is less, shall have a contrast ratio, corrected for ambient lighting, of not less than 4 in the case of beam-limiting devices designed for use on stationary equipment, and a contrast ratio of not less than 3 in the case of beam-limiting devices designed for use on mobile equipment. The contrast ratio is defined as I_1/I_2 where I_1 is the illumination 3 millimeters from the edge of the light field toward the center of the field; and I_2 is the illumination 3 millimeters from the edge of the light field away from the center of the field. Compliance shall be determined with a measuring aperture of 1 millimeter.

(e) *Field limitation and alignment on stationary general purpose x-ray equipment.* Except when spot-film devices are used, stationary general purpose x-ray systems shall meet the following requirements in addition to those prescribed in paragraph (d) of this section:

(1) *Field indication and alignment.* (i) Means shall be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, to align the center of the x-ray field with respect to the center of the image receptor to within 2 percent of the SID, and to indicate the SID to within 2 percent;

(ii) The beam-limiting device shall numerically indicate the field size in the plane of the image receptor to which it is adjusted;

(iii) Indication of field size dimensions and SID's shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which correspond to those of the image receptor to within 2 percent of the SID when the beam axis is perpendicular to the plane of the image receptor; and

(iv) Compliance measurements will be made at discrete SID's and image receptor dimensions in common clinical use (such as SID's of 36, 40, 48, and 72 inches and nominal image receptor dimensions of 5, 7, 8, 9, 10, 11, 12, 14, and 17 inches) or at any other specific dimensions at which the beam-limiting device or its associated diagnostic x-ray system is uniquely designed to operate.

(2) *Positive beam limitation.* (i) Means shall be provided for positive beam limitation which will, at the SID for which the device is designed, either cause automatic adjustment of the x-ray field in the plane of the image receptor to the image receptor size within 5 seconds after insertion of the image receptor or, if adjustment is accomplished automatically in a time interval greater than 5 seconds or is manual, will prevent production of x rays until such adjustment is completed. At SID's at which the device is not intended to operate, the device shall prevent the production of x rays.

(ii) The x-ray field size in the plane of the image receptor, whether automatically or manually adjusted, shall be such that neither the length nor the width of the x-ray field differs from that of the image receptor by greater than 3 percent of the SID and that the sum of the length and width differences without regard to sign be no greater than 4 percent of the SID when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor.

(iii) The radiographic system shall be capable of operation, at the discretion of the operator, such that the field size at the image receptor can be adjusted to a size smaller than the image receptor. The minimum field size at a distance of 100 centimeters shall be equal to or less than 5 by 5 centimeters. Return to positive beam limitation as defined in subdivisions (i) and (ii) of this subparagraph shall occur upon a change in image receptor.

(iv) Positive beam limitation may be bypassed when radiography is conducted which does not use the cassette tray or permanently mounted vertical cassette holder, or when either the beam axis or table angulation is not within 10° of the horizontal or vertical during any part of the exposure, or during stereoscopic radiography. If the bypass mode is provided, return to positive beam limitation shall be automatic.

(v) A capability may be provided for overriding positive beam limitation in the event of system failure or to perform special procedures which cannot be performed in the positive mode. If so provided, a key shall be required to override the positive mode. It shall be impossible to remove the key while the positive mode is overriden.

(f) *Field limitation on radiographic x-ray equipment other than general purpose radiographic systems*—(1) *Equipment for use with intraoral image receptors.* Radiographic equipment designed for use with an intraoral image receptor shall be provided with means to limit the x-ray beam such that:

(i) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the x-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 7 centimeters; and

(ii) If the minimum SSD is less than 18 centimeters, the x-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 6 centimeters.

(2) *X-ray systems designed for one image receptor size.* Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID.

(3) *Other x-ray systems.* Radiographic systems not specifically covered in paragraphs (d), (e), of this section, subparagraph (2) of this paragraph and paragraph (g) of this section, and systems covered in subparagraph (1) of this paragraph which are designed for use with extraoral as well as intraoral image receptors shall be provided with means to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor. In addition, means shall be provided to align the center of the x-ray field with the center of the image recep-

tor to within 2 percent of the SID. These requirements may be met with:

(i) A system which performs in accordance with paragraphs (d) and (e) (1) of this section; or, when alignment means are also provided, may be met with either:

(ii) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed (each such device shall have clear and permanent markings to indicate the image receptor size and SID for which it is designed); or

(iii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

(g) *Field limitation and alignment for spot-film devices.* When a spot-film device is used, the following requirements shall apply:

(1) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. Such adjustment shall be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film.

(2) The total misalignment of the edges of the x-ray field with the respective edges of the selected portion of the image receptor along the length or width dimensions of the x-ray field in the plane of the image receptor, when adjusted for full coverage of the selected portion of the image receptor, shall not exceed 3 percent of the SID. The sum without regard to sign of the misalignment along any two orthogonal dimensions shall not exceed 4 percent of the SID.

(3) It shall be possible to adjust the x-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size, at the greatest SID, shall be equal to or less than 5 by 5 centimeters.

(4) The center of the x-ray field in the plane of the film shall be aligned with the center of the selected portion of the film to within 2 percent of the SID.

(h) *Source-skin distance.* (1) X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance to not less than:

(i) Eighteen centimeters if operable above 50 kilovolts peak, or

(ii) Ten centimeters if not operable above 50 kilovolts peak.

(2) Mobile or portable x-ray systems other than dental shall be provided with means to limit source-to-skin distance to not less than 30 centimeters.

(i) *Beam-on indicators.* The x-ray control shall provide visual indication whenever x rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(j) *Multiple tubes.* Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the x-ray control and at or near the tube housing assembly which has been selected.

(k) *Standby radiation from capacitor energy storage equipment.* Radiation emitted from the x-ray tube when the exposure switch or timer is not activated shall not exceed a rate of 2 milliroentgens per hour at 5 centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters. The response time of the (radiation measuring) instrument system shall be no less than 3 and no greater than 20 seconds.

§ 1020.32 Fluoroscopic equipment.

The provisions of this section apply to equipment for fluoroscopy and for the recording of images through an image intensifier.

(a) *Primary protective barrier*—(1) *Limitation of useful beam.* The entire cross section of the useful beam shall be intercepted by the primary protective barrier of the fluoroscopic image assembly at any SID. The fluoroscopic tube shall not produce x rays unless the barrier is in position to intercept the entire useful beam. The exposure rate due to transmission through the barrier with the attenuation block in the useful beam combined with radiation from the image intensifier, if provided, shall not exceed 2 milliroentgens per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate.

(2) *Measuring compliance.* The entrance exposure rate shall be measured in accordance with paragraph (d) of this section. The exposure rate due to transmission through the primary barrier combined with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters. If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop. If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters. Movable grids and compression devices shall be removed from the useful beam during the measurement. For all measurements, the attenuation block shall be positioned in the useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

(b) *Field limitation*—(1) *Nonimage-intensified fluoroscopy.* The x-ray field produced by nonimage-intensified fluoroscopic equipment shall not extend beyond the entire visible area of the image receptor. Means shall be provided to permit further limitation of the field. The minimum field size at the greatest SID shall be equal to or less than 5 by 5 centimeters.

(2) *Image-intensified fluoroscopy.* For image-intensified fluoroscopic equipment the total misalignment of the edges of the x-ray field with the respective edges of the visible area of the image receptor along any dimension of the visually defined field in the plane of the image receptor shall not exceed 3 percent of the SID. The sum, without regard to sign, of the misalignment along any two orthogonal dimensions intersecting at the center of the visible area of the image receptor shall not exceed 4 percent of the SID. For rectangular x-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor. Means shall be provided to permit further limitation of the field. The minimum field size, at the greatest SID, shall be equal to or less than 5 by 5 centimeters.

(c) *Activation of tube.* X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the operator for the entire time of any exposure. When recording serial fluoroscopic images, the operator shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(d) *Entrance exposure rate limits*—(1) *Equipment with automatic exposure rate control.* Fluoroscopic equipment which is provided with automatic exposure rate control shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 10 roentgens per minute at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls, such as additional pressure applied continuously by the operator, shall be required to avoid accidental use. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(2) *Equipment without automatic exposure rate control.* Fluoroscopic equip-

ment which is not provided with automatic exposure rate control shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens per minute at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is activated.

Special means of activation of high level controls, such as additional pressure applied continuously by the operator, shall be provided to avoid accidental use. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(3) *Measuring compliance.* Compliance with this paragraph (d) shall be determined as follows:

(i) If the source is below the table, exposure rate shall be measured 1 centimeter above the tabletop or cradle.

(ii) If the source is above the table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the exposure rate shall be measured 30 centimeters from the input surface of the fluoroscopic imaging assembly.

(e) *Indication of potential and current.* During fluoroscopy and cinefluorography x-ray tube potential and current shall be continuously indicated. Deviation of x-ray tube potential and current from the indicated values shall not exceed the maximum deviation as stated by the manufacturer in accordance with § 1020.30(h)(3).

(f) *Source-skin distance.* Means shall be provided to limit the source-skin distance to not less than 38 centimeters on stationary fluoroscopes and to not less than 30 centimeters on mobile fluoroscopes. In addition, for image-intensified fluoroscopes intended for specific surgical application that would be prohibited at the source-skin distances specified in this paragraph, provisions may be made for operation at shorter source-skin distances but in no case less than 20 centimeters. When provided, the manufacturer must set forth precautions with respect to the optional means of spacing, in addition to other information as required in § 1020.30(h).

(g) *Fluoroscopic timer.* Means shall be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device shall not exceed 5 minutes without resetting. A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while x rays are produced until the timing device is reset.

(h) *Mobile fluoroscopes.* In addition to the foregoing requirements of this section, mobile fluoroscopes shall provide intensified imaging.

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

§ 1030.10 Microwave ovens.

(a) *Applicability.* The provisions of this standard are applicable to microwave ovens manufactured after October 6, 1971.

(b) *Definitions.* (1) "Microwave oven" means a device designed to heat, cook, or dry food through the application of electromagnetic energy at frequencies assigned by the Federal Communications Commission in the normal ISM heating bands ranging from 890 megahertz to 6,000 megahertz. As defined in this standard, "microwave ovens" are limited to those manufactured for use in homes, restaurants, food vending, or service establishments, on interstate carriers, and in similar facilities.

(2) "Cavity" means that portion of the microwave oven in which food may be heated, cooked, or dried.

(3) "Door" means the movable barrier which prevents access to the cavity during operation and whose function is to prevent emission of microwave energy from the passage or opening which provides access to the cavity.

(4) "Safety interlock" means a device or system of devices which is intended to prevent generation of microwave energy when access to the cavity is possible.

(5) "Service adjustments or service procedures" mean those servicing methods prescribed by the manufacturer for a specific product model.

(6) "Stirrer" means that feature of a microwave oven which is intended to provide uniform heating of the load by constantly changing the standing wave pattern within the cavity or moving the load.

(7) "External surface" means the outside surface of the cabinet or enclosure provided by the manufacturer as part of the microwave oven, including doors, door handles, latches, and control knobs.

(c) *Requirements*—(1) *Power density limit.* The power density of the microwave radiation emitted by a microwave oven shall not exceed one (1) milliwatt per square centimeter at any point 5 centimeters or more from the external surface of the oven, measured prior to acquisition by a purchaser, and thereafter, 5 milliwatts per square centimeter at any point 5 centimeters or more from the external surface of the oven.

(2) *Door and safety interlocks.* (i) Microwave ovens shall have a minimum of two operative safety interlocks one of which must be concealed. A concealed safety interlock on a fully assembled microwave oven must not be operable by (*a*) any part of the body, or (*b*) a rod 3 millimeters or greater in diameter and with a useful length of 10 centimeters. A magnetically operated interlock is considered to be concealed only if a test magnet, held in place on the oven by gravity or its own attraction, cannot operate the safety interlock. The test magnet shall have a pull at zero air gap of at least 4.5 kilograms and a pull at 1 centimeter air gap of at least 450 grams when the face of the magnet which is toward the interlock switch when the magnet is in the test position is pulling against one of the large faces of a mild steel armature having dimensions of 80 millimeters by 50 millimeters by 8 millimeters.

(ii) Failure of any single mechanical or electrical component of the microwave oven shall not cause all safety interlocks to be inoperative.

(iii) Service adjustments or service procedures on the microwave oven shall not cause the safety interlocks to become inoperative or the microwave radiation emission to exceed the power density limits of this section as a result of such service adjustments or procedures.

(iv) Insertion of an object into the oven cavity through any opening while the door is closed shall not cause microwave radiation emission from the oven to exceed the applicable power density limits specified in this section.

(v) One (the primary) required safety interlock shall prevent microwave radiation emission in excess of the requirement of paragraph (c)(1) of this section; the other (secondary) required safety interlock shall prevent microwave radiation emission in excess of 5 milliwatts per square centimeter at any point 5 centimeters or more from the external surface of the oven. The two required safety interlocks shall be designated as primary or secondary in the service instructions for the oven.

(vi) A means of monitoring one or both of the required safety interlocks shall be provided which shall cause the oven to become inoperable and remain so until repaired if the required safety interlock(s) should fail to perform required functions as specified in this section. Interlock failures shall not disrupt the monitoring function.

(3) *Measurements and test conditions.* (i) Compliance with the power density limits in this paragraph shall be determined by measurements of microwave power density made with an instrument system which (*a*) reaches 90 percent of its steady-state reading within 3 seconds when the system is subjected to a stepped input signal and which (*b*) has a radiation detector with an effective aperture of .25 square centimeters or less as measured in a plane wave, said aperture having no dimension exceeding 10 centimeters. This aperture shall be determined at the fundamental frequency of the oven being tested for compliance. The instrument system shall be capable of measuring the power density limits of this section with an accuracy of plus 25 percent and minus 20 percent (plus or minus 1 decibel).

(ii) Microwave ovens shall be in compliance with the power density limits if the maximum reading obtained at the location of greatest microwave radiation emission does not exceed the limits specified in this paragraph when the emis-

sion is measured through at least one stirrer cycle. Pursuant to § 1010.13 of this chapter, manufacturers may request alternative test procedures if, as a result of the stirrer characteristics of a microwave oven, such oven is not susceptible to testing by the procedures described in this subdivision.

(iii) Measurements shall be made with the microwave oven operating at its maximum output and containing a load of 275±15 milliliters of tap water initially at 20°±5° centigrade placed within the cavity at the center of the load-carrying surface provided by the manufacturer. The water container shall be a low form 600-milliliter beaker having an inside diameter of approximately 8.5 centimeters and made of an electrically nonconductive material such as glass or plastic.

(iv) Measurements shall be made with the door fully closed as well as with the door fixed in any other position which allows the oven to operate.

(4) *Instructions.* Manufacturers of microwave ovens to which this section is applicable shall provide or cause to be provided:

(i) To servicing dealers and distributors and to others upon request, for each oven model, adequate instructions for service adjustments and service procedures including clear warnings of precautions to be taken to avoid possible exposure to microwave radiation;

(ii) With each oven, adequate instructions for its safe use including clear warnings of precautions to be taken to avoid possible exposure to microwave radiation.

(Sec. 358, 82 Stat. 1177; 42 U.S.C. 263f)

[FR Doc.73-21646 Filed 10-12-73;8:45 am]